**Call for input “Investors, ESG and Human Rights”**

The European Union would like to thank the Working Group on Business and Human Rights for the opportunity to contribute to the upcoming thematic report on “Investors, ESG and Human Rights”. The contribution is structured on the basis of the questionnaire proposed and includes inputs from the European Union (the European External Action Service and the European Commission).

**State duty to protect human rights**

1. **What State, regional, and international mechanisms and regulations exist to promote or restrict investment/financing using an ESG approach that takes human rights into account and how do they align with the UNGPs? How do these mechanisms and regulations promote or inhibit business respect for human rights consistent with the UNGPs?**

The EU sustainable finance framework fully integrates the obligation for undertakings and investors to comply with all relevant international human rights provisions. For example the EU Taxonomy, a classification system for sustainable investments, requires undertakings to ensure their activities are carried out in accordance with minimum safeguards as part of assessing their alignment with the environmental criteria of the Taxonomy. These safeguards are, namely, the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

1. **To what extent do current regulations ensure adequate information and disclosure for investors adopting an ESG approach to understand human rights impacts of businesses?**

The EU Corporate Sustainability Reporting Directive (CSRD) requires all large companies and all listed companies (except listed micro-enterprises) to disclose information on what they see as the risks and opportunities arising from social and environmental issues, and on the impact of their activities on people and the environment. This helps investors, civil society organisations, consumers and other stakeholders to evaluate the sustainability performance of companies, as part of the European green deal. The sustainability information to be disclosed under the CSRD is further specified in European Sustainability Reporting Standards (ESRS), which includes information on social and governance aspects, and requires companies to disclose certain information about their due diligence processes and value chains. The ESRS also require companies to disclose to what extent their policies are aligned with international frameworks, such as the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, amongst others.

In addition, under the EU Sustainable Finance Disclosures Regulation market participants targeting ESG objectives are required to disclose the share of their investments in investee companies that do not respect these previously mentioned international principles and guidelines. Market participants should also disclose whether these investee companies have policies to monitor compliance with these principles and guidelines, and mechanisms to address violations of these principles and guidelines. Under the Sustainable Finance Disclosures Regulation, market participants targeting ESG objectives are required to consider a set of principal adverse indicators, including on social and employee matters, respect for human rights, anti-corruption and anti-bribery matters. These indicators have to be disclosed to investors.

1. **How can States encourage and regulate accurate communication of ESG practices by businesses and investors to prevent misleading or unsubstantiated claims regarding respect for human rights?**

Disclosures under the EU sustainable finance framework, including as regards human rights matters as outlined above, fall under the oversight and enforcement of EU and national competent authorities. Key parts of the disclosures-framework also fall under mandatory audit and assurance requirements. Further, the disclosures framework will become increasingly digitised in the coming years, facilitating greater access to data for investors, as well as improved comparability and analytics regarding all corporate disclosures and claims, including as regards human rights.

1. **How can policies, programs, plans and activities in one State concerning regulation of investors in relation to human rights have potential or actual adverse or positive human rights impacts outside of their territory or jurisdiction?**

The EU sustainable finance framework is not limited to the activities of EU undertakings within the territory of the Union, but covers their overseas activities as well. The requirements to ensure compliance with human rights outlined above therefore also apply to their activities in third countries, encouraging a consistent approach inside and outside the EU. Financial products sold to investors in the EU, including by third country financial intermediaries, also have to ensure compliance with the framework. The sustainability reporting obligations under the EU CSRD also apply to third country companies which are listed in the EU and which have activities in the EU.

1. **How can States better advance human rights-compatible regulation and policies concerning investors and financial institutions generally in a manner that fulfils their international legal obligation to protect human rights?**

The EU sustainable finance framework is set to be complemented by further measures currently pending before co-legislators (EU Corporate Sustainability Due Diligence Directive) and will be reviewed periodically to ensure it remains up-to-date and in line with the objectives of promoting positive environmental outcomes and with full regard for the EU obligations concerning human rights.