

This paper provides the technical advice from EFRAG Administrative Board Due Process Committee to the EFRAG Administrative Board. The paper does not represent the official views of EFRAG or any individual member of the EFRAG Administrative Board. This paper is made available to enable the public to follow the discussions and decisions on the EFRAG's due process.

Key elements of due process procedures for the elaboration of non-binding guidance documents or other material to support the implementation of ESRS

(Discussed at EFRAG DPC meetings on 25 July 2023 and 28 September 2023)

General principles

Article 25 (d) of [EFRAG's Internal Rules](#) provides that the EFRAG sustainability Reporting Board is responsible for the development of '*non-binding guidance documents or other material to support the implementation of the EU Sustainability Reporting Standards*'.

'Implementation Guidance' is understood to be the non-authoritative material issued by the EFRAG SRB to help stakeholders understand the requirements in ESRS and implement them.

Identification of matters

EFRAG has two ways to identify the topics to be addressed by the Implementation Guidance and their level of priority:

- The assessments made by the EFRAG SRB and the EFRAG SR TEG members about the potential Implementation Guidance questions and their priority on the basis of input received from the members under the multi-stakeholder configuration of the two bodies; and
- The opening of an access point to collect implementation questions directly from stakeholders allowing them to submit questions or suggestions on implementation following a structured format (using the Alchemer tool or any similar tool).

The questions submitted will be subsequently filtered and if needed regrouped by the EFRAG SRB and EFRAG SR TEG and addressed following the due process below described.

Categorisation of matters

Implementation questions received are categorised, under the responsibility of the EFRAG SRB according to the sustainability topic they relate to (Cross-cutting; Environmental; Social; Governance; Sector-specific standards; or Other) and following the below categories.

The categorisation is formally approved by the EFRAG SRB with EFRAG SR TEG being informed on a no objection basis. The European Commission reserves the right to have a final decision on whether a question is a category “out-of-scope of ESRS” because it may require an interpretation of Union law.

The following specific due process steps will apply to the issues submitted depending on their categorisation.

Category	Due Process Steps
Request for clarifications of contents already included in ESRS	<p>Clarifications are approved by EFRAG SR TEG with the EFRAG SRB approval on a no-objection basis.</p> <p>Clarifications (structured in a FAQ format) are accompanied by a reasoning for the conclusion reached and published on EFRAG website.</p> <p>Clarifications are not subject to public consultations.</p>
Issue requiring the development of non-authoritative implementation guidance or illustrative example(s)	The applicable due process is detailed below this table.
Issue requiring future standard setting or amendments to ESRS	<p>The topic is considered for inclusion into EFRAG standard-setting workplan (considering EFRAG’s regular due process for agenda setting (see <i>Chapter 4 Agenda Setting</i> of the DPP).</p> <p>Once put on the standard setting agenda, the topic follows the regular due process for standard setting described in chapter 5 of the DPP.</p>
Issues considered outside the scope of EFRAG implementation support (e.g. question requiring an interpretation of the EU Law)	<p>The question is formally transferred to the European Commission. The European Commission may request, on a case-by-case basis, involvement of EFRAG in addressing the questions.</p> <p>There may be situations where the issues are also outside the remit of EFRAG and the European Commission. For example, questions regarding ISSB or GRI standards. Such issues may not necessarily be systematically transferred to the European Commission.</p>

<p>Rejection notice</p>	<p>A reasoning for the rejection is provided by the EFRAG Secretariat to the EFRAG SRB for approval (the EFRAG SRB thus approves the categorisation and the reason for the rejection at the same time). Like for all categorisation decisions, EFRAG SR TEG is informed on a no objection basis.</p> <p>Rejection notices are not subject to public consultation.</p> <p>Rejection can be justified by issue being outside of the scope of the ESRS, non-pervasive or not widespread, too broad to answer efficiently.</p>
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Elaboration of the Implementation guidance and illustrative examples

As a general rule, the decision-making process for the Implementation Guidance and Illustrative Examples will follow the normal due process described in [EFRAG's Due Process Procedures](#) for the standard setting activities of EFRAG SRB and EFRAG SR TEG to make decisions, each of the two bodies in its respective role.

As a general principle, in this specific context:

- Purely technical drafting sessions of the EFRAG SR TEG and EFRAG SRB will not be held in public; and
- Discussions about the content of the guidance and strategy and decision-making sessions will be held in public. EFRAG may however decide to hold certain discussions in private. When technical discussions are held in private, and consistent with paragraph 2.6 a) of the DPP, the EFRAG SRB Chair informs the DPC and provides a justification for this choice.

Intermediary drafts of the Implementation Guidance will be made publicly available in the context of the public sessions of the EFRAG SRB and EFRAG SR TEG meetings as soon as stabilised. EFRAG will share developed material with the European Commission for information purposes.

Final drafts of Implementation Guidance will be published on EFRAG website and open for comments for a minimum period of one month. Comment periods will be set up to neutralise holiday periods (15 July to 15 August).

The EFRAG SRB and EFRAG SR TEG will consider the feedback received from stakeholders in public meetings and the EFRAG SRB will take a final decision on the Implementation Guidance upon the recommendations made by the EFRAG SR TEG.

Communication

All implementation questions submitted to EFRAG and their categorisation are included (on an anonymous basis) in a public issue-log published on EFRAG website.

The EFRAG DPC in its oversight role of the overall due process, will be regularly updated on the identification and categorisation of implementation issues and on the progress in addressing the issues. For that effect, the issue-log serves both as an operational and due-process documentation tool.

Planned timing for clarifications, implementation guidance and illustrative examples are communicated (via the issue-log) and updated on a regular basis.

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