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10 September 2021

Submitted by email:  
[ESRSdueprocess@EFRAG.org](mailto:ESRSdueprocess@EFRAG.org)

**Subject : EY's response to EFRAG's Public Consultation Paper on due process procedures for EU sustainability reporting standard-setting**

Dear Mr. Gauzès,

EY welcomes the opportunity to contribute to EFRAG's Public Consultation Paper on the due process procedures for EU sustainability reporting standard-setting – June 2021 (the CP).

In this letter we provide comments on the proposed procedures as stipulated in the CP. We also refer to our letters to EFRAG dated 3 November 2020<sup>1</sup> and 7 January 2021<sup>2</sup> related to the Ad personam mandate, as well as to our letter dated 14 July 2021<sup>3</sup> to the European Commission (EC) in response to the Corporate Sustainability Reporting Directive (CSRD) proposals.

The CSRD will support the European Green Deal, a set of policy measures intended to combat the climate crisis by transforming the EU into a modern, resource-efficient and competitive economy – a key EU and global initiative, with significant implications for the business community and society at large. Accordingly, robust and effective reporting standards, along with regulatory oversight are essential.

We support the development of EU Sustainability Reporting Standards (ESRS) by EFRAG. We believe that the approach to EU standard setting should be broad and consultative given the multitude of issues,

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[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12129-Corporate-Sustainability-reporting/F2662307\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12129-Corporate-Sustainability-reporting/F2662307_en)

interests and perspectives. It therefore should be multi-stakeholder and inclusive in its nature. The standard setting process should accommodate the essential criteria for standards quality: independence from improper external influences (e.g. political interference), impartiality and appropriate due process.

The EC has also committed to building on, and contributing to, other international sustainability reporting initiatives, in particular that of the IFRS Foundation. This will help to mitigate regulatory fragmentation for companies operating globally and support ongoing attempts to converge the standards globally. We support the ‘building blocks’ approach as a catalyst for such a collaborative approach: a global baseline set by the IFRS Foundation’s International Sustainability Standards Board (ISSB) would accommodate for additional regional disclosures, inspired by regional policy objectives.

The EU framework should also draw upon existing approaches, academic work and international initiatives and leverage those contents and principles that are useful. In various EU Member States there are also legislative initiatives under way (e.g. value chain law in Germany) relating to corporate sustainability reporting. We recommend the EC/ EFRAG to reflect these upcoming national sustainability requirements to a maximum extent in the EU legislation to avoid an additional layer of national legislation.

The EC plans to adopt the first set of ESRS by 31 October 2022, an ambitious timeline. It is important to consider carefully how standards’ quality can be assured in this period.

We broadly agree with the CP’s proposals about the due process procedures to be followed by EFRAG in its role as technical advisor to the EC in developing draft ESRS or draft amendments of ESRS. However, we would like to flag the following points:

- Due process during interim technical work: We believe that the ‘usual’ due process, as stipulated in Chapter 5 *Standard-setting*, should apply to the fullest extent possible during the interim technical work performed by the EFRAG Project Task Force on European Sustainability Reporting Standards (PTF-ESRS) to ensure that the standard setting is conducted in an open, fair and transparent manner throughout the process.
- Consultation period: We also believe that the consultation period for exposure drafts for new standards or amendment(s) to existing standards (except where trivial or administrative), should be at least 120 days in all cases to allow time for all interested stakeholders to contribute.
- Transparency: We recommend that the meetings of the Sustainability Reporting Working Groups (SR WGs) be held in public (i.e. general public can attend meetings of the SR WGs).

## **Multi-stakeholder approach**

The EU has appropriately chosen a multi-stakeholder approach. Given the diversity of stakeholders and complexity of the topics, an elaborate and robust due process must take place involving all of the parties involved in the implementation and use of the new standards. Therefore, we believe that EFRAG’s due process should include informing and consulting with:

- All relevant competent EU bodies to ensure coherence and alignment with related initiatives on sustainability matters at both EU and international levels.
- Key stakeholder groups directly involved in the sustainability reporting value chain (e.g., investors, companies/preparers, auditors/accountants) who can provide valuable perspectives based on practical experience. In this regard, it will be important to seek diverse perspectives across multiple sectors.
- Other groups (e.g., civil society representatives/NGOs, academics, trade unions, local authorities, etc.) so that standards development on topics, such as environment, social matters, human rights, ethics and corruption, can benefit from broad perspectives.
- Specialists in the different sustainability areas who can provide expert input and contributions on specific matters.

At the same time, it is important to prevent potential conflict of interests and implement needed measures to avoid over or under representation of specific national or other interests.

It is also important that EFRAG works closely with the new ISSB of the IFRS Foundation, to ensure that their respective efforts on sustainability reporting standards are harmonized as far as possible so that the 'building blocks' approach can be properly applied. This collaboration should not only take place on a strategic level, but also on a technical level by EFRAG staff and the ISSB staff, or until the ISSB is formed, the Technical Readiness Working Group.

### **Due process during interim technical work**

It is stated in the CP, section *Public Consultation*, that the 'usual' due process (covered in Chapter 5 *Standard-setting*) to the extent possible and practicable will be applied to the interim technical work that is undertaken by the PTF-ESRS until the revised governance structure for the sustainability reporting standards' activity is in place.

According to the CP, section *Public Consultation*, it is envisaged that *at least* the following four steps would be undertaken during the interim technical work performed by the PTF-ESRS:

- Engagement with stakeholders throughout the standard-setting process;
- Public consultation (with shortened consultation periods) on exposure drafts on the draft standards and making comment letters received publicly available on the EFRAG website;
- Outreaches to seek input from stakeholders during the shortened consultation period, which may include consulting with National Authorities, National Standard Setters and sustainability reporting standard setters to the extent feasible within the short timeframe;
- Comment letter analysis and publication of feedback statements.

We believe that the 'usual' due process, as stipulated in Chapter 5 *Standard-setting* (including more than four steps), should apply to the fullest extent possible during the interim technical work performed by the PTF-ESRS to ensure that the standard setting is conducted in an open, fair and transparent manner throughout the whole standard setting process.

## **Proposed timeline poses some challenges**

We fully recognize the importance and urgency to move sustainability reporting standards expeditiously. The EC plan to adopt the first set of ESRS by 31 October 2022 is established with that objective in mind. It is important to consider carefully how standards' quality can be assured in this period.

The CP proposes a comment period of *usually* 120 days which may be reduced to no less than 60 days after obtaining approval from the Administrative Board. We believe that the consultation period for exposure drafts for new standards or amendment(s) to existing standards (except where trivial or administrative), should be at least 120 days *in all cases* to allow time for all interested stakeholders to contribute and given sustainability standards and metrics may be more complex, and involve additional specialists, than in setting of most financial standards, including considering this is new territory.

## **Transparency**

The members of the EFRAG SR TEG cannot be expected to have comprehensive knowledge of all the sustainability related topics. Therefore, they will need to rely on input from the different SR WGs composed by experts in a specific topic. So the discussions at the level of the SR WGs will be instrumental in covering the wide range of sustainability related topics.

As such we propose that the meetings of the SR WGs will be held in public (i.e. general public can attend meetings of the SR WGs), as opposed to what is proposed in paragraph 2.7 of the CP (i.e. SR WGs meetings are *generally* held in closed form).

We hope our views are helpful for your further deliberations. We look forward to actively engaging in further dialogue on the due process procedures for ESRS as well as the standard setting itself in due course.

If you have any questions on this letter, please contact Andrew Hobbs, EMEIA Public Policy Leader on +44 202 7951 5485 or by email: [ahobbs@uk.ey.com](mailto:ahobbs@uk.ey.com).

Yours sincerely,



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