

## ANNEX

### Comments on EFRAG's consultation paper on Due Process Procedures for EU sustainability reporting standard-setting

#### Due process during the interim technical work

We acknowledge that EFRAG needs to start the standard-setting process without delay in order to meet the provisional deadline of 31 October 2022, laid down in the proposal for a CSRD. Considering however the importance of governance and of the Due process, as mentioned in introduction, we consider that the governance reform should be achieved at the latest by the end of 2021. It is of utmost importance that the first set of sustainability reporting standards be established through a transparent and inclusive process. In this regard, we would like to make the following comments:

- we consider that more information on when the reform of the EFRAG's governance will take place and when the envisaged procedures will be implemented is necessary in order to allow stakeholders to assess whether the Due process is fit for purpose and to usefully contribute to the consultation;
- further details about the procedures for engagement with stakeholders would also be welcome;
- we consider that the minimum consultation period should not be shorter than 60 days;
- outreach events organised during the interim period should include preparers.

#### Chapter 1: Objective

- **Section 1.5:** we could agree to a certain extent that an agile and adaptable Due process is necessary. However, we consider that the circumstances under which an accelerated Due process may be implemented should be clearly and exhaustively described. Companies' main concern lie with the short deadlines that could be imposed to EFRAG by the co-legislators and hence undermine the Due process itself.

#### Chapter 2: Principles

- **Section 2.12 (and 5.12):** as mentioned above in the cover letter, transparency is key to ensure that preparers and end-users will adhere to the future ESRS. In this regard, we consider that all agenda papers should be made public.
- **Sections 2.16 and subs.:** we strongly support the principle to conduct a public consultation on draft technical advice to the European Commission. In view of the requirement for each technical advice to be accompanied by cost-benefit analyses, we would like to emphasize the need to allow sufficient time to stakeholders to provide input. Assessing the impacts of envisaged regulations is an extremely important but difficult exercise to which preparers are willing to contribute, provided that they are given reasonable deadlines to collect the relevant data.

#### Chapter 3: Due process oversight

- **Section 3.1:** subject to clarification of the remit and role of the Administrative Board, we are not convinced that the establishment of such a Board is necessary and would improve the efficiency of EFRAG's organisation and work. On the contrary it appears that it would add an additional layer and require additional funding.

## Chapter 5: Standard-setting

As regards standard-setting and generally speaking, we would recommend establishing, as a guiding principle, that all future standards elaborated by the EFRAG SRB shall allow sufficient time to companies to understand their new reporting requirements, adapt their organisation and reporting processes and implement their new obligations in an orderly and efficient manner, including where relevant a phasing-in of the new disclosure requirements.

- **Section 5.1:** we support the mandatory steps described in section 5.1 of the consultation paper but suggest, for the sake of clarity, specifying for each step the stakeholders concerned. Eg.: redrafting the first step to specify that EFRAG SRB and/or EFRAG SRB TEG shall debate any proposals in one or more public meetings with stakeholders. Furthermore, and notwithstanding the due process oversight described in chapter 3, the circumstances under which a public consultation period may be shortened should be explicitly mentioned.
- **Section 5.2:** As regards the non-mandatory steps of the Due process, we consider that outreaches towards stakeholders should be mandatory and suggest that this step be reclassified as a mandatory step.
- **Section 5.5:** the diagram in section 5.5 mentions a “re-deliberation (if needed)” step in the Due process. The circumstances under which re-deliberation is necessary should be specified.
- **Sections 5.19 and subs.:** the role and responsibility of each body could be clarified to avoid any confusion. We understand for instance that exposure drafts and discussions papers will be prepared by the Secretariat and published under the responsibility of the SRB. This point could be clarified as well as the responsibility regarding the preparation and publication of non-mandatory materials.
- **Section 5.15:** we acknowledge the importance of digitalisation and the role the development of new technology – including structured format for the exchange of data – can play in facilitating dissemination and access to non-financial information. Including right from the start digitalisation in the standardisation process could prevent later issues and unexpected costs for preparers due for instance to the need to change the format of reporting and related IT systems. However, digitalisation is not a priority for preparers, considering that non-financial information is not as mature as financial information. Therefore, and pursuant to the ‘guiding principle’ mentioned above, we consider that digital requirements could be defined at inception of the standardisation process but should be implemented only at a later stage allowing enough time for companies to prepare themselves.
- **Section 5.22:** it should be clearly stated that additional non-mandatory materials issued by EFRAG are non-binding and do not supplement the ESRS. In this regard we would also appreciate clarifications regarding the interpretations of the said standards (see footnote 2 page 4, “*Possible interpretations of ESRS are not yet addressed in these Due Process Procedures since interpretation issues may arise with the implementation of ESRS in 2024 and beyond. Interpretations may be addressed in the review of the Due Process Procedures that will take place at regular intervals*”).
- **Section 5.31 :** as pointed out by EFRAG in section 2.21, Article 49 of the CSRD proposal requires EFRAG’s technical advice to be accompanied by cost-benefits analyses. We note that EFRAG anticipates this requirement and proposes to include in section 5.31 the requirement to provide to the Commission, along with any technical advice, their bases for conclusions and impact analyses. However, we would welcome more details regarding when – at what stage of the standard-setting process described in section 5.5 – such cost-benefits analyses would be conducted. Once again, our main concerns are that stakeholders be given sufficient time to provide input and that the first set of standards developed during the interim period will be subject to a cost-benefits analysis.

## Appendix 2: EFRAG's new organisation

As regards the Corporate Reporting Lab, we consider that it plays an important role in identifying good practices and stimulating innovation related to corporate reporting. The Corporate Reporting Lab should therefore be continued in the form of task forces to provide input to the two boards and include work on both financial and non-financial reporting, including on cross-cutting issues.