

This agenda paper was discussed by the EFRAG Administrative Board Due Process Committee (the 'DPC') at its 13 October 2022 meeting. The paper includes the DPC's recommendations to the EFRAG Administrative Board.

EFRAG Administrative Board

Consultation periods for Set 2 of draft ESRS and for the XBRL Taxonomy for Set 1

Objective

- 1 The objectives of the session are to discuss and approve the following:
 - (a) The consultation period for Set 2 of draft ESRS (Part A); and
 - (b) The consultation period for the draft XBRL Taxonomy for Set 1 of ESRS (Part B).

Part A - Consultation period for Set 2 of draft ESRS

- 2 At its 30 August meeting, the EFRAG Administrative Board Due Process Committee (the 'DPC') considered a request from the EFRAG SRB and EFRAG SR TEG to have a shortened consultation period for the second Set of draft ESRS.
- 3 DPC members considered that they would need further information about the request before being in a position to make an informed recommendation to the EFRAG Administrative Board on the matter. In particular members identified the need to further:
 - (a) Consider the experience and feedback from the first public consultation (Set 1 of draft ESRS) in terms of input from stakeholders about the volume and complexity of questions and consider possible adaptations for Set 2;
 - (b) Consider alternatives to the shortening of the consultation period (such as phasing in of consultations, pre-publication of drafts, better use of technological support...); and
 - (c) Clarify whether the consultation package for Set 2 would include the basis for conclusions and the impact analysis together as required in the EFRAG Due Process Procedures (DPP).
- 4 The EFRAG Administrative Board was informed about the DPC discussions at its 6 September meeting.
- 5 The following sections discuss item b) and c) which were addressed by the EFRAG SRB and EFRAG SR TEG.

- 6 Item a) is covered in Agenda paper 03-02 which provides an inventory of the A comments and suggestions provided by respondents in the ESRS Public consultation in relation to EFRAG's Due Process.

EFRAG SRB and EFRAG SR TEG discussions

- 7 The feedback from the DPC was presented to the EFRAG SR TEG at its 15 September meeting and to the EFRAG SRB at its 13 September 2022 meeting.
- 8 To respond to the concerns raised by the DPC, the EFRAG SRB has considered an approach combining the following course of actions:
- (a) Staggering the release of the EDs and the length of the consultation periods (while respecting a minimum of 90 days in any cases; more time when possible);
 - (b) Considering the composition of the consultation package; and
 - (c) Early communicating actions and outreaches during the development of the standards.

Staggering the release of the EDs

- 9 Set 2 of draft ESRS comprise different components that are largely unrelated that can be consulted upon at and over different periods:
- (a) 10 Draft Sectoral ESRS;
 - (b) Draft ESRS for listed SMEs;
 - (c) Voluntary Guidance for other SMEs;
 - (d) Draft ESRS for non – EU undertakings; and
 - (e) Revisions to Set 1 of draft ESRS to take into account the capping of the disclosure requirement on the value chain (based on the requirement in the draft ESRS for listed SMEs and o for SMEs).

Draft Sectoral ESRS

- 10 EFRAG plans to issue a total of 10 draft sector standards as part of Set 2. The discussions in EFRAG SR TEG and EFRAG SRB are expected to start in December 2022 and continue in early 2023 aiming at publishing Exposure Drafts in Spring. Before and during the public consultation period, outreaches, workshops and other forms of stakeholder engagement of draft sector standards in Set 2 aiming at delivery of draft sector standards in Set 2 to the EC in November 2023.
- 11 On the consideration that some of the draft sector standards are more advanced than others (in particular those already covered by GRI standards), EFRAG has considered the possibility to early release some of them for the public consultation. Under the approach and while the consultation periods will always be at least of 90 days :
- (a) Some of the draft sector standards could be released by late February /early March 2023 and therefore consulted upon over an approximate period of 4 month until end June 2022.

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- (b) The other draft sector ESRS, which are less advanced could be released at a later point in time, as soon as available before late March 2023 and consulted upon the period from late March to end June 2023 (3 month period minimum).
- 12 The exact list will be determined by the project teams at a later point in time, based on effective progress, agreed with the EFRAG SR TEG and EFRAG SRB.
- 13 As mitigating measure, the sector workshops – first workshop on topics and second workshop on disclosure requirements – will be partly public: during the last 40 minutes of these workshops, EFRAG will open the session to the public and new participants will receive a summary of the discussions and be able to discuss the topics with other interested stakeholders. Documents will be available for them to support the discussion.

Draft ESRS for small-listed companies / Voluntary guidance for other SMEs

- 14 The draft ESRS for listed SMEs and the voluntary guidance for other SMEs should also be delivered by mid-November 2023 and include a cost benefit analysis and basis for conclusions.

Voluntary guidance for other SMEs

- 15 A draft voluntary guidance prepared by the PTF ESRS cluster is available, as a starting point. The discussions in EFRAG SR TEG and subsequently the EFRAG SRB will be starting in November 2022. Subject to the consideration and approval of the EFRAG SRB and SR TEG, it could be envisaged that a public consultation including outreach, educational sessions and workshops can take place as early as second half of February 2023 for a four-month period.

Draft ESRS for listed SMEs

- 16 The work to develop the draft ESRS for listed SMEs is currently starting. A discussion of the methodology will be scheduled for the next weeks. Discussions in EFRAG SR TEG are expected to start only in December or early 2023 followed by discussion in the EFRAG SRB. The development of the draft ESRS for SMEs requires extensive outreach and engagement with the small -listed community already before the Exposure Draft is issued.
- 17 Because of the above, EFRAG envisages a Three month consultation period for the standard for listed SMEs starting in March 2023 and ending in June 2023.
- 18 During the public consultation period there will be further outreaches, workshops and other forms of stakeholder engagement of draft ESRS for listed SMEs.

Draft ESRS for non-EU undertakings

- 19 The draft ESRS will have to be derived from the first Set of draft ESRS. Work will start in 2022. Similarly, as above this requires discussion in the EFRAG SR TEG and EFRAG SRB to finalise the Exposure Draft that will be issued for public consultation. A dedicated public workshop to be held when the working papers will be sufficiently advanced, to involve the stakeholders. During the public consultation more stakeholder engagement will take place.
- 20 The draft ESRS for non-EU companies will also have to be delivered to the EC by mid-November 2023. A cost benefit analysis may need to be considered (to be confirmed with the EC Staff)..

- 21 For the draft ESTS for non-EU undertakings no shortened consultation period is envisaged.

Amendments to Set 1 of draft ESRS

- 22 The content of this draft cannot be finalized before the finalization of the ESRS for listed SMEs.
- 23 The timing of the public consultation for the draft amendments to Set 1 (to reflect the fact that disclosures required from the value chain cannot exceed the disclosure requirements in the standard for SMEs) is dependent on
- (a) First the proposed amendments cannot be finalised before the final ESRS as approved by the EC is known. This is not expected to occur before June 2023 (adoption delegated acts by the EC).
 - (b) Second, the proposed amendments are also dependent upon the content of the draft ESRS for listed SMEs to be submitted to the EC which is expected to be open for consultation until June 2023.
 - (c) It would not be effective to start the consultation on the proposed amendments before the outcome of the public consultation on the ESRS for SMEs is known.
- 24 Therefore the proposed amendments to the first set of draft 1 could be consulted upon starting on or after June 2023.
- 25 Because of the above It would be advisable to consider whether the Amendments to the first Set of ESRS would not preferably be moved to Set 3 rather than Set 2.
- 26 The consultation period could be shorter as the amendments would be simpler (and expected to only consist in removing requirements) than completely new standards. (e.g. 3 months if it covers the summer period). As a reminder, the DPP stipulates that the consultation period is a minimum of 120 calendar days but may be reduced to no less than 60 calendar days after obtaining approval from the EFRAG Administrative Board .

Composition of the Consultation packages

- 27 Paragraph 5.25 of the DPP states that Exposure drafts of proposed draft standards or draft amendments are ‘accompanied by a basis for conclusions (‘BCs’), initial cost-benefit analyses and draft digital guidance’
- 28 The wording ‘accompanied by’ seems to imply that the three documents are issued at the same time as the exposure draft and exposed for the same period. The following paragraphs discuss the practical implications for the public consultation on the second set of draft ESRS.

Basis for conclusion

- 29 In the light of the feedback received to the consultation of the first set of draft ESRS, the EFRAG SRB and EFRAG SR TEG have considered the possibility to issue the BCs for Set 2 at the same time as the EDs in particular in case of a shortened consultation period. However, the additional challenges deriving from this approach would offset any eventual benefit from the extra days gained from shortening the consultation period. With the resources currently available, the Secretariat does not consider it feasible to add additional challenges to the development of the standards

before the end of the year. Therefore, it is envisaged that the BCs are made available one month after the launch of the public consultation. The extra time being needed to draft the BCs.

Initial Impact analysis

- 30 Like for the consultation on Set 1, EFRAG envisages to largely outsource the cost benefit analysis of Set 2 by commissioning economic studies to third party consultant(s), due to resources constraints. Calls for tenders will be issued in Spring 2023.
- 31 In practice and based on the experience of Set 1 it would be impracticable for EFRAG to issue the economic study at the same time when the EDs are published for public consultation as this would delay the publication of the EDs by several months.
- 32 Therefore, like for Set 1, EFRAG does not expect to include the study on the cost-benefit analysis as part of its initial consultation packages for Set 2. However it could be considered to include specific questions on the cost- benefit profile in the consultation. A preliminary high level assessment could also be included in the draft BCs (that will be available during the consultation) and explain the rationale for the assessment (based on the input from the pre-public consultation outreach) so as to present a form preliminary cost-benefit assessment and indicate that the final cost-benefit assessment will be subsequently subject to :
- (a) The feedback from the public consultation on the matter; and
 - (b) the outcome of the economic study commissioned by EFRAG with a contractor.

Digital guidance

- 33 It has first to be noted that the CSRD does not specify when the digital guidance should be provided nor the role of EFRAG on the matter. It broadly provides that entities are to prepare their management report in the European Single Electronic Format (ESEF) format referred to in Article 3 of the EC's Delegated Regulation (EU) 2019/815 and shall tag their sustainability reporting, including the disclosures in Article 8 of Regulation (EU) 2020/852 (EC Taxonomy Regulation), in accordance with the format referred to in that Regulation.
- 34 EFRAG's mission on the digital guidance stems from a request letter made by the European Commission (see draft letter in Agenda paper 04-01) stipulating the conditions (including scope and timeline) for the preparation of the guidance.
- 35 In the case of the first set of draft ESRS, the EC Staff indicates that the XBRL taxonomy be submitted by EFRAG is based on the final ESRS as adopted in the EU (expected to occur in June 2023) no later than September 2023. This means that, in practice, publishing the draft digital guidance at the same time as exposing the ESRS EDs as inferred to by the DPP, would create inefficiencies as the digital guidance would need to be subsequently revised to reflect the changes arising by the EC review and approval process of the final ESRS (with the risks to have to consult again).
- 36 Therefore and as agreed with the EC staff, EFRAG has considered a tentative timetable for the draft digital guidance for Set 1 over the period November 2022 to

September 2023 which has been included in the [call for tenders](#) issued on 28 September 2022 with a deadline of 24 October. (See part B below).

- 37 For the XBRL Taxonomy of Set 2 of draft ESRS, EFRAG similarly expects to deliver the taxonomy related to the first batch of 10 sector ESRS in September 2024. Depending on the available resources, this XBRL Taxonomy may be developed in house or (partially or entirely) will be outsourced. In the latter case a call for tenders will have to be issued in autumn 2023 and part of the work will be undertaken in 2023 requiring supervision and coordination.
- 38 This implies that, as a general rule, the XBRL Taxonomy is not consulted upon as part of the ESRS ED contrary to what the current drafting of the DPP suggests. The EFRAG Secretariat therefore suggests, in the next round of revisions to the DPP, to include the description of the due process for the digital guidance, the provision in 5.25 is revised to no longer infer that the digital guidance is issued consulted upon at the same time as the EDs. Instead reference could be made to the request letter sent by the European Commission setting the terms and conditions for EFRAG's work.

Early communication on the consultation and stakeholders' outreach during the development phase

- 39 Both the EFRAG SRB and EFRAG SR TEG agreed that EFRAG's public consultations should be early announced to the public and any shortening of the consultation period should be well explained every time.
- 40 Involvement of the relevant stakeholders' communities in the development of the standards, with dedicated outreach events/Q&A. It is also important to note that for the sector standards and digital taxonomy, the consultation is not targeted to the general reporting audience but to the specific sector communities and to the experts of digitalization. This means that targeted events are more effective than general consultations (see also above the description of workshops open to the public).
- 41 As soon as the consultation periods are known with enough certainty, communication (including if applicable reasons for shortened periods) could be done through:
- (a) The monthly publication of EFRAG Update;
 - (b) Social media
 - (c) Specific news items published on the EFRAG website announcing upcoming consultations; and
 - (d) Information during the outreach events or activities during the development phase of the draft ESRS.

B. Consultation period for the draft XBRL guidance for Set 1 of ESRS

- 42 The due process for digital reporting has been left out of the current drafting of the Due Process Procedure (DPP)s. Paragraph 5.19 (footnote 27) *notes that 'the due process on digital guidance will be further detailed as soon as the EFRAG SRB and EFRAG SR TEG have developed their approach to the matter in the context of the first set of draft ESRS to be submitted to the European Commission in 2022'*.

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- 43 Therefore the question of the timing and the length of the public consultation on the digital guidance is currently left open. Based on the discussion with the EC Staff, and as in the draft request letter prepared by the EC staff (see paper 04-01), the [call for tenders](#) issued on 28 September 2022, anticipates the following timeline for the project:

Activity	Period
Development of the XBRL Taxonomy based on EFRAG's draft ESRS	Mid-November 2022 – 10 April 2023 (about 5 months)
EFRAG's review and approval process ¹ ,	April 2023
Public consultation on EFRAG's draft Taxonomy	May – June 2023 (2 months)
Revision of Taxonomy to reflect changes (if any) to final ESRS as approved by the EU and (2) changes (if any) arising from EFRAG's public consultation.	July - August 2023 (2 months)
Final review and approval of changes by EFRAG	September 2023
Final Draft Taxonomy (Digital guidance) – submission to the EC	No later than 30 September 2023

- 44 A public consultation period of two month is anticipated (over May June 2023) for the draft XBRL Taxonomy for the first set of ESRS. The public consultation period of two months would also be included in the DPP and applied to future public consultation on the XBRL Taxonomy of ESRS.
- 45 As a point of comparison, the ISSB/IASB due process handbook also provide for two-month public consultation (that can be reduced to one month). Similarly in 2021, the SASB consulted on its XBRL taxonomy for a period of 60 days.
- 46 In addition to the public consultation, EFRAG also envisages to collect input during the development phase of the project by:
- (a) Undertaking a staff consultation on the approach, scope and granularity of the XBRL taxonomy. The objective of the staff request will focus on fundamental matters that need to be considered early to enable the development of the XBRL Taxonomy on a timely basis, such as the architecture of the guidance, its level of granularity etc...

¹ The EFRAG SRB will approve the methodology and architecture (with input from SR TEG as appropriate) but due to the technical nature of the tasks the EFRAG Secretariat does not anticipate a detailed discussion and approval of the technical XBRL specifications of each and every DRs and/or datapoint.

- (b) Establishing an ESRS Taxonomy Consultative Forum in which members can contribute towards the development of the ESRS Taxonomy. The supporting paper for this Forum could be the staff paper used for the staff consultation.

Recommendation of the EFRAG Administrative Board DPC

- 47 Members of the DPC tentatively supported the proposed staggered approach and the composition of the consultation packages for the consultation periods of Set 2 subject to:
- (a) Obtaining more information about the resource constraints of EFRAG leading to the proposed shortened consultation periods for some of the draft ESRS;
 - (b) EFRAG considering how to simplify from inception the draft ESRS exposed for public consultation; and
 - (c) Preparing a clearer calendar view of the different planned consultation periods.
- 48 Members also supported the proposed maximum two-month consultation period for the XBRL Taxonomy of Set 1 of draft ESRS and agreed to recommend to the EFRAG Administrative Board for inclusion in the Due Process Procedures (ultimately to be approved by the EFRAG General Assembly) and to work in the meantime for XBRL Taxonomy of Set 1 of draft ESRS on this basis.
- 49 Members also noted that Due Process for the XBRL Taxonomy was not currently addressed in EFRAG's Due Process Procedures and would need to be further developed. In particular the respective responsibilities of the EFRAG SRB and EFRAG SR TEG in approving the Taxonomy would need to be clarified as well as the required due process steps.

Question to the EFRAG Administrative Board
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| 50 Do EFRAG Administrative Board DPC members support the proposed approach for the consultation period of Set 2 as tentatively recommended by the DPC? |
| 51 Do members also support a two-month consultation period for the XBRL Taxonomy of the first Set of ESRS (to be included in the DPP for subsequent consultation processes on ESRS XBRL Taxonomies)? |