

Due process procedures for European Sustainability Reporting Standards

Public Consultation Paper issued by EFRAG June 2021

Comments from ACCA
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GENERAL COMMENTS

ACCA welcomes the opportunity to provide views in response to the consultation paper on due process procedures for European Sustainability Reporting Standards (ESRS) which was done with the assistance of ACCA's Global Forum for Corporate Reporting.

We note that the development of the ESRS will be taking mandatory reporting into new areas and that the timetable for their adoption is short. This puts particular stress on the due process to ensure transparency, consultation and credibility of the standards.

The ESRS will be setting requirements for reporting in some areas, such as on social and employee issues, where there may not be well-established standards to act as a model. In addition, the standards, their approach, format and wording will be new. The standards will be applied by a much wider range of companies than the previous EU requirements, including large unlisted entities. The key elements of the new structure of EFRAG are not yet in place and have not had the opportunity as yet to consider the due process – the administrative board responsible for due process oversight, and the Sustainability Reporting Board, the Technical Expert Group and other groups carrying out the due process. The due process should include approval by qualified majority voting of the standards to be submitted to the European Commission.

Given the very short timeframe and the greater number of companies that will be required to apply the ESRS, early engagement with preparers will be vital to ensure that the standards are capable of being implemented. We would urge EFRAG to consult as widely as possible with preparers throughout the standard-setting process, to ensure that preparer concerns are taken into account. The ESRS need to be proportionate, both to avoid disclosure overload and so that the reporting that results is of a consistent and high quality.

A thorough due process of consultation is vital, so that ESRS can be from the start high quality standards that have credibility and acceptance among preparers and users. We are concerned that the timetable set out will make it very difficult to follow this thorough due process and that there are significant risks to the credibility of the ESRS as a result.

COMMENTS ON SPECIFIC PARAGRAPHS

Paragraph 1.5: We agree that there needs to be a mechanism whereby due process may be significantly speeded up in exceptional circumstances. For the development of the initial standards in the two initial two phases, such shortcutting of the due process would not be appropriate given the issues raised in our general comments above.

Paragraph 2.7: We are not clear how significant the working groups will turn out to be. The range of topics that ESRS will cover may indicate that much of the work in developing standards may be done in these groups and submitted to the TEG for approval. If so then the transparency requirements should apply to them.

Paragraph 3.2: It is not clear whether a separate Due Process Committee (DPC) will be needed given that due process will be a major focus for the Administrative Board. Responsibility would be clearer without a separate DPC.

Paragraph 4.2: we support the distinction made between the initial workplan and the agenda subsequently.

Paragraph 4.7: The importance of field-testing should not be restricted to the SME standard but should be a factor in deciding the agenda for ESRS for larger entities as well.

Paragraph 4.9: The due process does need to be clear and specific on who are regarded as the stakeholders for the development of ESRS. In our view, the preparer community is a key stakeholder group that should be actively engaged. This paragraph is an example of where this will be relevant, but this clarity is also needed in terms of the effectiveness of the consultations and the composition of the different bodies within EFRAG – the SRB, TEG and working groups for example.

Paragraph 4.12 In developing ESRS there needs to be some co-ordination between the sustainability and financial reporting activities of EFRAG. It is not clear where the responsibility for that lies with TEG, SRB or the Administrative Board, but it should go beyond the remit of the reporting lab.

Paragraph 5.1(b): We appreciate the need for as rapid a process as possible in the light of the timetable set for the standards to come into force and accept that 60 days may be needed in some cases. EFRAG will, however, need to consider the phasing of the exposure drafts of the initial standards so that a reasonable gap between them is allowed and not all are required to be responded to in the same period. A meaningful consultation needs to recognise the capacity of key stakeholders to engage. The unfamiliarity of the standards noted in our general comments above is relevant here.

Paragraph 5.1(e): In addition to the public consultation EFRAG will need to consider the global picture. The co-construction of the standards with the new board proposed by the IFRS Foundation and other global bodies is vital if the burden for preparers and the lack of comparability for users of different standards are to be minimised. We envisage that the OECD may also play a key role in this regard, as highlighted in our response to the European Commission on the CSRD proposal in July 2021.

Paragraph 5.10(c): The global initiatives will need to be specified at some point. We have noted the role of the IFRS Foundation's new board and the OECD above.

Paragraph 5.16: The digital guidance needs to be included in the exposure draft for public consultation.

Paragraph 5.17: The decision making by SRB and the TEG need to be fully incorporated into the Due Process Document. In our view all decisions in these bodies on the standards can aim to be by consensus, but ultimately should be by qualified majority (with the publication of dissenting views). A simple majority will not provide sufficient credibility for the ESRS. Appendix 2 and these paragraphs seem inconsistent in the role of the Commission and its final arbitration.

Paragraph 5.21: The basis of conclusions needs to note the amendments but also explain the reasoning for those amendments.