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Public Consultation on EDs Draft European sustainability reporting standards (ESRS)

Objective

- 1 The objective of this session is;
 - (a) to review the modified cover note to be published with the Exposure Drafts on the first set of draft ESRS;
 - (b) to agree the public consultation period (the EFRAG Administrative Board supported by its Due Process Committee discussed and agreed reluctantly in anticipation of the request of the EFRAG SRB for a shorter public consultation period than the regular period of 120 days, the accelerated due process in a public session its meeting of 20 April)
 - (c) to review the modified questions to be raised in the public consultation
 - (d) to discuss and provide directions on the outreach activities including outreach events during the public consultation

Background and context

- 2 In the meeting of 13 April, the EFRAG SRB started the discussions on the cover note and the questions that will accompany the Exposure Drafts on the first set of draft European sustainability reporting standards (ESRS) (EDs) including the length of the public consultation period for the EDs. The EFRAG SRB members were invited by the EFRAG Board President Jean-Paul Gauzes, in addition to the comments raised in the meeting of 13 April to provide their comments if feasible by 15 April but at the latest by 18 April so that the EFRAG Secretariat could work on a revision of the cover note and questions for review in the meeting of 22 April. The final approval of the cover note and questions accompanying the public consultation on the EDs is envisaged to be approved by the EFRAG SRB in an additional meeting on 28 April.
- 3 The ambitious deadlines for submitting the first set of draft ESRS to the European Commission can only be met if the public consultation on the Exposure Drafts of the first set of draft ESRS as prepared by the PTF- ESRS is launched as soon as possible whereby the EFRAG SRB has no responsibility for the contents. However, the EFRAG SRB ensures a certain level of oversight of the work done by the PTF-ESRS by reviewing and approving the questions raised to stakeholders in the public consultation and approving the modalities of the public consultation (including the duration of the public consultation period).

- 4 The launch is aimed to take place as soon as possible around the end of April. This is outlined in the draft cover note that will accompany the EDs (paper 02-02).
- 5 In order to meeting the ambitious deadline, set by the European Commission of EFRAG submitting its technical advice on the first set of draft ESRS at the latest by mid- November, EFRAG will have to use for the public consultation the accelerated option possibility included in the Sustainability Reporting Due Process Procedures. In its meeting of 13 April the EFRAG SRB discussed the proposal of a reduced public consultation period of 90 days suggested by the EFRAG Secretariat, 30 days shorter than the minimum public consultation period of 120 days. The majority of the EFRAG SRB expressed discomfort with a shorter public consultation period than the minimum of 120 days for reasons that included the volume of the EDs, the need to receive high quality input, the holiday period and the later delivery of the Bases for Conclusions that are important to understand the EDs. A timeline of the process from public consultations on ED to the submission of the first set of draft ESRS the European Commission is included in paper 02-02A.
- 6 Allowing only three months (including August) for analysing comments, evaluating, discussing and coming to a consensus position by the EFRAG SRB supported by the EFRAG SR TEG on the first set of draft ESRS to be submitted to the EC mid-November is already extremely tight. Allowing an additional month for public consultation would only be feasible if the deadline for the submission of the technical advice to the European Commission is extended or if the first set of draft ESRS could be delivered into two phases. EFRAG however needs to work within the deadlines set by the European Commission and the colegislators. However if the political agreement between the European Parliament, the Council and the European Commission would include a timetable on the adoption of the ESRS in the form of delegated acts extended in a way that creates additional flexibility, EFRAG would expect to have the possibility to accordingly extend its own public consultation period to the regular period of 120 days. Such an extension could be announced during the public consultation period.
- 7 In order to allow for the possibility of deciding on an accelerated due process for the EDs with a reduced public consultation period, in anticipation of a possible request of the EFRAG SRB, the EFRAG Administrative Board discussed on 20 April in a public session the acceptability of a reduced public consultation period, the EFRAG Administrative Board reluctantly agreed to an accelerated due process and the Bases for Conclusions not be available at the same time as the EDs emphasizing that the accelerated due process cannot have shorter consultation period than 90 days, the Bases for Conclusions should be available as soon as possible but not later than the end of May and the respective responsibilities of the EFRAG SRB and the EFRAG PTF-ESRS should be clearly explained. The EFRAG SRB will have to decide on the public consultation period in its meeting of 22 April.
- 8 In making this decision the EFRAG SRB has to consider that a public consultation period of 120 days will reduce the time for the analysis of comments, evaluation, discussion and reaching consensus on the draft ESRS for submission to the European Commission with one month if the European Commission and co-legislators' deadline cannot be changed.
- 9 The EFRAG SRB and the EFRAG SR TEG will consider the EDs in parallel with the public consultation and following the handover by the PTF-ESRS. Together with the input and results from the public consultation, the EFRAG SRB supported by the EFRAG SR TEG will agree the final first set of draft ESRS to be submitted to the European Commission.
- 10 In parallel with the public consultation a number of issues need still to be progressed:
 - (a) Finalisation and publication of Bases for Conclusions in relation to the Exposure Drafts by the end of May;

- (b) Cost-benefit analysis: a public call for tender has been issued with as deadline 28 April with as aim to assist EFRAG in the cost-benefit analysis which need to accompany the first set of draft-ESRS. The interim report will be presented to and discussed by the EFRAG permanent bodies.
 - (c) Digital guidance to publish the ESRS compliant information in an ESAP-compatible digital format
- 11 During the public consultation outreach activities will take place. The EFRAG SRB supported by the EFRAG SR TEG will give direction for these outreach events and activities.

Questions for the EFRAG SRB

Do you agree in the circumstances with the public consultation period of 90 days ending 31 July 2022?

Do you have comments to improve the revised cover note to accompany the EDs?

Do you have comments to improve the revised questions for public consultation to be included in the cover note?

What are your directions for the outreach activities and outreach events?

Agenda Papers

- 12 In addition to this cover note, agenda papers for this session are:
- (a) Agenda paper 02-02 – Draft revised cover note to accompany the public consultation (clean and marked up)
 - (b) Agenda paper 02-02A timeline
 - (c) Agenda paper 02-03 – Draft revised questions for the public consultation
 - (d) Agenda paper 02-04 – Outreach activities including Outreach events