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Response to consultation November 2020, related to the “Ad personam mandate on Non-Financial Reporting Standard Setting”

Nantes, January 3<sup>rd</sup>, 2021

Dear Mr Gauzès,

I am happy to submit input to your November consultation related to the “Ad personam mandate on Non-Financial Reporting Standard Setting”, below. I have based my answers on my own knowledge of the field, as well as academic research in that matter.

Best regards,

Professor Delphine GIBASSIER

## Questions

### QUESTION 1 - DUE PROCESS

*Do you agree that the above reflects the key due process steps for open and transparent non-financial standard setting? If not, which other steps would you advise me to consider or to remove?*

The following step should be completed: “Undertaking field tests and other forms of effect analyses before a project is included in the work plan” should include “field tests, **scientific review and adequation with EU policy analysis**, and other forms of effect analysis...”

As I had previously stated in my previous response, a clear scientific background and policy background for inclusion (or prioritization) of topics and standards should be warranted. Notably, key planetary boundaries or social foundations which require world attention should be prioritized based on scientific background.

A potential short “test” phase should be added. Preparers have often said that “pragmatism” and the reality of their situation (data collection etc) was not taken into account by standard-setters in non-financial reporting. Currently, tests for the taxonomy are already demonstrating issues with practices. In some cases, or even maybe in all cases, a short “test” phases would be warranted.

Finally, a clear review process should be implemented as science and practice, as well as materiality, evolve fast. A clear mechanism for review after “post implementation review” should be added.

## **QUESTION 2 - MEMBER STATES AND NATIONAL PUBLIC AUTHORITIES**

*Considering the proposed new governance structure (see section 5 EFRAG proposed new core structure) at what level do you consider that the relevant national authorities should be involved and should they be members or observers:*

- EFRAG General Assembly?
- The EFRAG Board responsible for the oversight of the Non-Financial Reporting Board (see diagram in the Preliminary Report)?
- The Non-Financial Reporting Board?
- TEG for Non-Financial Reporting?

*Should a Consultative Forum (similar to the Consultative Forum of Standard Setters in the Financial Reporting pillar) or any other form of advisory committee; be created for the Member States and national public authorities?*

There are no national authorities in relation to non-financial standard setting currently. It would be difficult to set the right perimeter and authorities. Therefore, as a first step, I would propose:

- 1/ national accounting authorities with the relevant expertise (which have issued relevant reports, statements on non-financial related matters) could participate in the EFRAG Board (they would represent and should represent public interest)
- 2/ if no relevant national authorities, relevant public authorities (e.g. EPAs) could be represented in a consultative forum

## **QUESTION 3 - EUROPEAN INSTITUTIONS AND AGENCIES**

*Considering the proposed new governance structure (see section 5 EFRAG proposed new core structure) at which level do you consider European institutions and agencies should have representatives and should they be members or observers:*

- The EFRAG Board responsible for the oversight of the Non-Financial Reporting Board (see diagram in the Preliminary Report)?
- The Non-Financial Reporting Board?
- TEG for Non-Financial Reporting?
- The Working Groups?

*Should a Consultative Forum or any other form of advisory committee; be created for European Institutions and Agencies to provide input to the TEG for Non-Financial Reporting and the Non-Financial Reporting Board?*

European institutions and agencies should have representatives and they be members of working groups on relevant standards.

## **QUESTION 4 - PRIVATE SECTOR AND CIVIL SOCIETY**

*Considering the proposed governance structure (see section 5), at which level do you consider private sector and civil society ought to have representatives:*

- The EFRAG Board responsible for the oversight of the Non-Financial Reporting Board (see diagram in the Preliminary Report)?
- The Non-Financial Reporting Board?
- TEG for Non-Financial Reporting?
- The Working Groups?

The expertise on non-financial reporting is scarce and limited overall. It is mainly present in academics, some consultancies, private standard-setters and a limited number of NGOs to date. There is a need for their representation:

- 1/ In the EFRAG Board
- 2/ In the Non-Financial Reporting Board
- 3/ In the TEG for Non-Financial Reporting
- 4/ In the relevant working groups

I would also say that relevant scientists of each topic (from sustainability science) should be involved in working groups (e.g. relevant climate change specialists). They are different from specialists of climate change accounting.

#### **QUESTION 5 - SMEs**

*Considering the proposed governance structure (see section 5), at which level do you consider SMEs (SMPs) should be represented:*

- *The EFRAG Board responsible for the oversight of the Non-Financial Reporting Board (see diagram in the Preliminary Report)?*
- *The Non-Financial Reporting Board?*
- *TEG for Non-Financial Reporting?*
- *A SME- focused Working Group?*

*Would it be sufficient to seek input of SMEs/SMPs in the public consultation and outreaches rather than involve them in the governance bodies?*

**I would include a representative from SME in the TEG for Non-Financial Reporting, as in any case, we are talking about a “value chain”,** and reporting does not stop at the door of large companies. I would also include an SME-focused working group. No it is not sufficient to seek input of SMEs/SMPs in the public consultation and outreaches rather than involve them in the governance bodies.

#### **QUESTION 6 - COOPERATION WITH OTHER STANDARD SETTERS AND INITIATIVES**

*What do you see as main features of cooperation with the (global) reporting initiatives?*

*What kind of involvement could you consider?*

There are 2 sides of the coin. Currently, there are activities related to harmonization globally at:

- 1/ the Corporate Reporting Dialogue level
- 2/ the “informal” structured network led by IMP
- 3/ the “group of 5” of the statement of intent
- 4/ the IFRS foundation

In all those instances, the future EU standard-setter should have a voice/collaboration mechanism.

The other way round is how should the EU standard-setter consult others in its process. I think there are several options:

- 1/ opening up working groups to those relevant standard setters (for example, when on certain topics where some “topical initiatives” are relevant, invite them into working groups)

2/ outreach & consultation

3/ close collaboration when doubling the work seems unnecessary, and closer collaboration would benefit EU and the public interest (for example, on new topics which are currently being worked on, or would emerge in the next few months, doubling the work at EU and private standard setter level would look unnecessary)

#### **QUESTION 7 - EFRAG BOARD**

*What in your view should be the maximum size the new EFRAG Board?*

A reasonable size for discussion would be a maximum of 20 people.

*Which stakeholders should be represented and in which proportion?*

**At least half of the EFRAG Board should represent expertise in non-financial reporting.**

That could include (25% finance community (investors, banking and finance services...), 25% preparers (issuers excluding finance), 25% public authorities (UE, national experts) and 25% civil society (Academics, NGOs, consumer associations, trade unions,...))

*Should there be observers? If so, who should be the observers?*

Observers could be national authorities which to date do not have the relevant expertise in non-financial reporting but would like to observe.

*Do you foresee any obstacles that may arise were the EFRAG Board charged with oversight to include representatives of the Non-Financial Reporting Board and the Financial Reporting Board?*

No

*Should the EFRAG Board appoint the members of both TEGs and the European Lab, or should this be done by their respective Boards (Non-Financial Reporting Board and the Financial Reporting Board)?*

The respective Boards should appoint members of the TEGs and the European Lab, with EFRAG Board oversight.

#### **QUESTION 8 - NON-FINANCIAL REPORTING BOARD**

*What in your view should be the maximum size of the new Non-Financial Reporting Board?*

Maximum 20.

*Which stakeholders should be represented and in which proportion?*

It should encompass the **interested stakeholders with the relevant expertise**, equally represented: 25% finance community (investors, banking and finance services...), 25% preparers (issuers excluding finance), 25% public authorities (UE, national experts) and 25% civil society (academics, NGOs, consumer associations, trade unions,...).

*Should there be observers? If so, who should be the observers?*

Observers could be national authorities which to date do not have the relevant expertise in non-financial reporting but would like to observe.

*Should the Non-Financial Reporting Board members be appointed by the EFRAG General Assembly on recommendation of the EFRAG Board or directly by the EFRAG Board?*

**Transparency will be key.** It could be directly by the EFRAG board, if all the process is transparent.

*How can the interconnectivity between the Financial Reporting Board and the Non-Financial Reporting Board be ensured?*

A common permanent working group should be installed for this matter.

#### **QUESTION 9 - TEG FOR NON-FINANCIAL REPORTING**

*What in your view should be the maximum size of the new Non-Financial Reporting TEG?*

It will require a significant number of members (and staff), from 20 to 40.

*Which stakeholders should be represented and in which proportion?*

It should encompass non-financial reporting **experts** equally represented: 25% finance community (investors, banking and finance services...), 25% preparers (issuers excluding finance), 25% public authorities (UE, national experts) and 25% civil society (academics, NGOs, consumer associations, trade unions,...).

*Should there be observers? If so, who should be the observers?*

Other academics, NGOs.

*Do you agree that EFRAG TEG members are recommended by the EFRAG Non-Financial Reporting Board but appointed by the EFRAG Board rather than be appointed by the EFRAG Non-Financial Reporting Board?*

Yes. The process should be public (who was candidate, who was appointed, why, and relevant expertise should be checked and validated). TEG members should have significant expertise in non-financial reporting.

*How can the interconnectivity between the Financial Reporting TEG and the Non-Financial Reporting TEG be ensured?*

A common permanent working group should be installed for this matter.

### **QUESTION 10 - ACTIVITIES OF THE EUROPEAN LAB**

*Do you agree that there is a need for a European Lab activity in the revised EFRAG governance structure?*

*Do you agree that the European Lab could address both non-financial reporting and financial reporting activities?*

*Do you have other comments or suggestions regarding the activities of the European Lab?*

I do not see the need for the European Lab in the future. I believe it could be transformed into a permanent connectivity structure between the two “legs” of EFRAG.

### **QUESTION 11 - FUNDING**

*Considering the proposed governance structure in this consultation document:*

*Should the majority of the funding, or even all the funding, be provided by the European Commission and the Member States?*

**Yes, this is very important, even more so for non-financial reporting.**

*Is it important that the private sector contributes to the funding and why? Should the public-private sector partnership model also be reflected in the funding?*

I would avoid private sector contributions. I would consider the exclusion of donations or contribution in kind as source of funding is a means to ensure the independence and to reduce conflict of interests.

*Would a levy at national or European level be feasible?*

**This is an interesting manner to develop public funding.**

*What alternative financing mechanism would you suggest being considered?*

I would strictly avoid memberships, services or any funding that could endanger the public interest and lead to considerable conflict of interests. The current funding structure of many private initiatives lead to conflict of interests, with “gold memberships” or “services to get better grades”. While those structures are private and need funding, **the future EU standard setter should strictly ensure the representation of the public interest and not lead to conflict of interests that would include private sector contributions.**