



To: Jean-Paul Gauzès
EFRAG President
35 Square de Meeûs, 1000 Brussels
Belgium

Our
reference: ECO-FRG-21-120
Sent by email to ESRSdueprocess@EFRAG.org

Subject: EFRAG's due process procedures for EU sustainability reporting standard-setting

Brussels, 15 September 2021

Dear Jean-Paul,

Europe's insurers remain as committed as ever to supporting the transition to a more sustainable society and to tackling climate change and they have welcomed the European Commission's decision to designate EFRAG to develop sustainability reporting standards in Europe.

Sustainability data plays a particularly important role for insurers. Insurers, as well as being preparers of ESG data, are the largest institutional investor group. ESG data from investee companies is therefore vital for insurers to be able to make sustainable investment decisions and comply with EU disclosure requirements. In addition, insurers' products and services play a direct role in climate adaptation and can also help mitigation. This adds to their interest and involvement in ESG-related disclosures.

European insurers are therefore fully committed to achieving a high level of transparency based on the upcoming sustainability reporting standards. Insurers support global cooperation on sustainability standardisation between EFRAG and international standard-setters, as this is key to achieving convergence, and they support the fact that EFRAG — demonstrating the EU's pioneering role in this field — is committed to contributing to the development of a global sustainability reporting system.

Well-balanced governance for the European bodies in charge of sustainability standardisation both during the interim period and in the revised structure is essential. While Insurance Europe supports the ambition and need for rapid progress in the development of sustainability standards, this should not come at the expense of the sound due process and stakeholder involvement that will ensure high quality standards.

As Insurance Europe has expressed in the past, funding for sustainability standardisation should reflect the EU's level of ambition. It is supportive of the public/private partnership model on the financial reporting side under which Insurance Europe contributes financially, has a governance role both at General Assembly level and on the EFRAG Board, and provides expert input through the TEG and the IAWG. Insurance Europe has significant interest in playing a role in the new sustainability pillar and will carefully consider the costs and benefits of potential financial contributions. However, given the benefits to and focus on the wider public good for the sustainability work of EFRAG, the funding mechanism for this pillar may need to be different to the financial reporting pillar.

Against this background, Insurance Europe welcomes the opportunity to comment on EFRAG's public consultation paper on the due process procedures for EU sustainability reporting standard-setting. Please find below comments on the consultation paper.

Chapter 2: Principles

- **The principles set out in Chapter 2 are supported**, but there should also be specific mention that, as a principle, EFRAG will systematically consider the need for **field-testing** to test and provide evidence of the practicability, proportionality and feasibility of new standards.
- **Consensus based decision-making with voting based on the consensus of a qualified rather than a simple majority should also be a principle.**
- **The principles should** apply — where relevant — **to EFRAG’s interim technical work.**
- EFRAG should take concrete steps to ensure transparency about:
 - **how it will contribute to a global solution** and the envisaged timeline; and,
 - **how it will collaborate with international initiatives.**

Insurance Europe agrees that EFRAG’s legitimacy is built on its transparency, governance, due process, public accountability and thought leadership. It supports a due process procedure that takes what currently exists for financial reporting within EFRAG as its main inspiration. While it is recognised that the nature of the work will be different (there is no standard drafting on the financial reporting side), the transparent and inclusive processes currently in place at EFRAG are a strong basis on which to build the sustainability reporting standards.

Europe’s insurers support the principles set out in Chapter 2. However, one element that is missing is a specific reference to field testing. While this should not generally be a mandatory step in the sustainability reporting standard-setting process, it should be systematically considered in order to test and provide evidence of practicability, proportionality and feasibility. Experience of standard-setting in financial reporting has shown the importance of appropriate field-testing, and this may be even more relevant for sustainability reporting, which is, in comparison, less mature. Insurance Europe would therefore urge EFRAG to include as a principle the need to consider for each standard (set of standards) whether fieldwork should be conducted and, if in doubt, to canvas the views of users and preparers via public consultation. Here, it should be emphasised that fieldwork can take different forms and must not necessarily always involve case studies/simulations, which require a considerable amount of time. However, when assessing the need for field-testing, a distinction should be made between:

1. reporting requirements that are to be defined by EFRAG: here, field-testing should take place to ensure practicability, proportionality and feasibility; and,
2. reporting requirements that result from existing reporting requirements (such as the SFDR and the Taxonomy Regulation): It is vital that the first set of European Sustainability Reporting Standards (ESRS) addresses the information needs of financial market participants. Here, field-testing is not necessary, as the reporting requirements are already/will soon be determined and might even cause delays to the standard-setting process.

Hence, Insurance Europe would like to recommend a phased-in approach to field-testing: The first set of the ESRS — as long as they rely on existing, well established reporting requirements — should be drafted without conducting a field-test. Subsequent reporting requirements should be subject to field-tests as decided by the EFRAG Sustainability Reporting Board (SRB) on a case-by-case basis.

Insurance Europe understands that the due process public procedures will also apply — where relevant — to EFRAG’s interim technical work. As it is unclear at this stage how long such interim period will last, it is important to clarify the governance structure that will be in place during this period with regards to sustainability standards and how drafting and decision-making processes will work. Preparers and users should be fully involved both in the technical work and the decision-making during the interim period. The SRB should thoroughly assess whether any proposals by the EFRAG project taskforce on ESRS should be subject to a public consultation, even if they

were subject to public consultation during the interim phase, to ensure robust governance and strengthen EFRAG’s legitimacy. Furthermore, Insurance Europe notes that requests for input from stakeholders, such as sustainability reporting standard-setters will only take place “during the shortened consultation period” and “to the extent feasible within the short timeframe”. As such requests are of particular importance, Insurance Europe believes not only that they are indispensable, but that they should take place much earlier — ideally from the beginning.

The SRB and the EFRAG Administrative Board Due Process Committee’s **voting requirements for approval should** be based on the **consensus of a qualified majority, not of a simple majority**. Getting things right is usually more important than getting things done, and having substantial board member agreement is more likely to ensure the standards work in practice and promote wider stakeholder support.

Chapter 3: Due Process Oversight

- **The proposal to establish a Due Process Committee (DPC) as a sub-committee of the EFRAG Administration Board, and the details proposed concerning its role are supported.**
- It should be made clear that all the responsibility, procedure and communication described in Chapter 3 **will apply to the existing financial reporting pillar, as well as to the new sustainability reporting pillar.**
- **The Due Process Procedures (DPP) should be aligned with the requirements of the Corporate Sustainability Reporting Directive (CSRD)**, in particular the CSRD requirements to a) ensure consistency, of both timing and content with the reporting requirements of financial market participants and b) build on existing standards and frameworks for sustainability reporting and accounting where appropriate. Alignment between the CSRD and DPP will be vital to the success of the initiative.

Chapter 4: Agenda setting

- **In general, the points made in Chapter 4 about defining the work plan and the research program, and identifying good practices are supported.** The latter work raises questions about the ongoing activities of the European Lab and highlights the need to clarify its role.
- **However, while Insurance Europe fully supports the overall ambition and understands the urgent need to tackle climate change, care should be taken to ensure the sustainability pillar’s work is focused and considers carefully an appropriate work plan, given the need to:**
 - simultaneously develop first standards and set up the sustainability reporting pillar;
 - focus EFRAG and stakeholder resources on developing high-quality standards and for companies to have time to develop high-quality reporting processes to comply with the new standards;
 - have sufficient time to influence, interact with and contribute to global developments; and,
 - work within funding constraints.

Therefore, focussing the initial phase of the work plan for the sustainability pillar on the minimum set of standards to be required by the CSRD legislation (eg, those relating to SFDR and the Taxonomy Regulation) is crucial.

Maintaining an active dialogue with stakeholders through written consultation processes and field-test campaigns, where considered necessary, is needed to ensure the proper design and implementation of the standards. While Insurance Europe supports the ambition and need for rapid progress in the development of sustainability reporting standards, this should not come at the expense of sound due process and stakeholder involvement. Stakeholder engagement will allow the design of the proposed standards to fit the needs of both preparers and users and make the implementation of the standards proportionate, cost-effective and operationally feasible while providing useful information to stakeholders interested in sustainability performance.

Given that sustainability reporting is a less mature field than financial reporting and that EFRAG is just taking on this new role, consultations on the sustainability reporting work plan every three years is not sufficient, until a reasonable level of maturity has been reached. EFRAG should have more flexibility in amending its work plan to adapt to policy developments.

In general terms, experience of standard-setting in financial reporting has shown the importance of appropriate field-testing, and this may be even more relevant for sustainability reporting, which is currently in its infancy. Field-testing should remain the norm so that the need for it is assessed on a systematic basis but with the option not to undertake it being one of the points consulted on, so that such a decision is only made if there is broad agreement among users and preparers.

Insurance Europe recognises

that the EFRAG European Reporting Lab was a positive stepping stone in fostering interest and beginning the work on sustainability reporting. The creation of the SRB and Sustainability Reporting TEG leads to questions about the Lab's ongoing role and activities and Insurance Europe recommends that the Lab's role is further defined, in consultation with EFRAG's member organisations.

Chapter 5: Standard-setting

- **There should be no shortening of the public consultation period from 120 days to 60 unless no other reasonable option is available to the SRB.**
- **A discussion paper should be kept as a mandatory part of the process, especially for major projects.**
- **The need for fieldwork should be consulted on before the SRB decides it is not necessary** (see comments on Chapter 2) and, **if in doubt, the views of users and preparers should be sought** via public consultation.
- **ESMA's role in EFRAG's advices to the European Commission needs to be clarified.**

While Insurance Europe understands that in some circumstances shortening the public consultation period from 120 days to 60 days may be needed, it would strongly caution against using this option unless no other reasonable option is available to the SRB.

ESMA's role in EFRAG's advices to the European Commission needs to be clarified. As currently drafted in the due process of setting sustainability standards, ESMA:

- is required to provide an opinion on the technical advice issued by EFRAG before it adopts standards and to issue guidelines on the supervision; and,
- shall issue guidelines on the supervision of sustainability reporting by national competent authorities.

The role of ESMA in the standard-setting process needs to be carefully considered and clarified in comparison to the role devolved to the other European institutions. It is important to ensure that there is no conflict between their supervisory roles and their opinions on the standards, while addressing the need to verify that the standards drafted are enforceable.

In particular, Insurance Europe does not consider direct supervision of sustainability disclosures by ESMA or its mandate to draft guidelines as appropriate to match the specific characteristics of all sectors.

Regarding enforcement, Europe's insurers believe that the national competent authorities are in a better position to intervene more efficiently, as they have a better and direct knowledge of their markets. European countries have organised their enforcement operations in different ways based on their own national legislations.



Finally, the basis for conclusions' (BC) objective to explain how proposed draft Standards or draft amendments are based on existing guidance developed by other standard-setters or initiatives and which changes have been made is strongly supported. Insurance Europe welcomes the fact that the BC will also include alternative views, if applicable, as per Appendix 1. In addition, the BC should include the SRB's responses to comments received when the proposals were subject to public consultation. It is suggested that EFRAG specifies this both in Appendix 1 and in the main text of the DPP.

We thank you for your kind consideration and stand ready to engage in further discussions on this important matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Olav B. Jones", with a long, sweeping underline.

Olav Jones
Deputy Director General &
Director, Economics & Finance
Insurance Europe

Insurance Europe is the European insurance and reinsurance federation. Through its 37 member bodies – the national insurance associations – it represents all types and sizes of insurance and reinsurance undertakings. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe's economic growth and development. European insurers pay out almost €1 000bn annually – or €2.7bn a day – in claims, directly employ nearly 950 000 people and invest over €10.4trn in the economy.