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**Brussels, 6 January 2021**

**Subject: Response to Ad personam mandate on Potential need for changes to the governance and funding of EFRAG**

Dear Mr Gauzès,

On behalf of the Deloitte<sup>1</sup> firms in the European Union (EU), we are pleased to provide our contribution to your Consultation document (herein “Consultation document”) on the future governance and funding of EFRAG, in case it were to be entrusted by the EU institutions with the development of EU non-financial reporting (NFR) standards.

We contributed preliminary views to your October 2020 first call for input on your ad personam mandate, in our letter dated 6 November 2020<sup>2</sup>. We welcome many of the proposals included in your Consultation document. We highlight below and in the appendix some elements for your further consideration. Please note that our thoughts about the structure of EFRAG, its size, membership, etc. may further develop depending on the ultimate mission and tasks that EFRAG might be assigned.

As preliminary comments, we wish to reiterate some important general views. In particular:

- (a) We support actions in favour of global initiatives because these are global issues and need global solutions. Businesses have global supply and value chains, face global risks and have global investors. Most importantly, issues such as climate change and achieving the UN Sustainable Development Goals require international solutions. In that respect, we refer you to our comment letter to the IFRS Foundation Consultation<sup>3</sup> where we express

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<sup>1</sup> For more information, see the link to [Deloitte](#).

<sup>2</sup> See the link to our [comment letter](#) of 6 November 2020 on the October 2020 call for input on EFRAG’s President Ad personam mandate on Non-Financial Reporting Standard-Setting

<sup>3</sup> See the link to our [comment letter](#) of 30 November 2020 to the IFRS Foundation on Sustainability Reporting.

our broad support for that organisation taking the leadership role for the NFR standard-setting at the global level. In that letter, we also acknowledge that *“the EU has an extensive body of experience, as well as a political ambition in the reporting of sustainability information”*. We ask that *“The IFRS Foundation and jurisdictional activities, like those in the EU, should be seen as complementary and not as being in competition”*. We advocate a building block approach for NFR standard-setting and we indicate that *“global sustainability standards focused on enterprise value developed through the IFRS Foundation’s initiative could meet a significant part of the EU’s requirements for non-financial reporting standards. The IFRS Foundation should therefore engage with the European Institutions to explore with the EU this building block approach to see how the proposals in the Consultation Paper would assist the EU in achieving their ambitions, whilst avoiding further fractures in the global reporting system. Further, this could help accelerate developments in standards in Block 2, designed to address broader, material sustainable development and companies’ impacts on economy, environment, and people, with the EU taking a leadership role in driving the creation of the appropriate global governance architecture for such standards. Further matters that reflect particular EU policy priorities and not addressed in either of these standards could be accommodated by supplemental requirements”*.

- (b) We support European activities for NFR and the role EFRAG could play. We acknowledge the specific needs of Europe, in particular as part of the revision of the non-financial reporting directive (NFRD), and the implementation of the EU Taxonomy and the EU Sustainable Finance Disclosures regulations. Europe has set itself ambitious targets as part of the EU Green Deal and the commitment to the Paris Agreement. The EU has already started to act upon this, with several regulations that either will become effective shortly or are under development. Relevant, reliable and comparable NFR information is one of the elements needed to achieve European policy objectives, and we share the view that it is urgently needed.

With respect to the Consultation document:

1. We are supportive of the proposals in relation to EFRAG’s new mission and due process as described in the document.
2. We support retaining the current infrastructure and role for the financial reporting (FR) pillar, modified with the proposed changes to the responsibilities of the FR Board (i.e. exclusion of any supervisory and oversight role).
3. We support the idea of an enlarged General Assembly that covers all EFRAG’s activities, taking responsibility for fulfilling the legal requirements, appointing the EFRAG President and members of the EFRAG (Supervisory) Board and the members of both the FR and NFR boards, recommended by the EFRAG (Supervisory) Board. The enlarged General Assembly would also be responsible for the funding of the organisation.
4. We support the proposals for an EFRAG (Supervisory) Board, which would look after the governance and administration of the overall organisation, as well as the oversight

of all the EFRAG bodies. We believe that the EFRAG (Supervisory) Board should be responsible for proposing to the General Assembly the appointment of members of the FR and NFR Boards. We also believe that the EFRAG (Supervisory) Board should be responsible for appointing the members of the FR and NFR TEGs, based on the recommendations from the FR and NFR Boards respectively. For good governance, we also consider that the EFRAG (Supervisory) Board and the FR and NFR Boards should be chaired by three different individuals, and that it would be appropriate for the FR and NFR Boards Chairs to have a standing invitation to participate to the EFRAG (Supervisory) Board as well, with no voting powers.

5. We support the FR and NFR Boards having the ultimate decision-making powers on FR and NFR issues respectively, being assisted by the FR and NFR TEGs and by the EFRAG staff. The FR and NFR TEGs would be informed by ad hoc Working Groups on specific subject matters, as needed. We suggest that the interconnectivity between FR and NFR should be reinforced at all levels of the organisation, for instance by the Chairs plus another member of the FR Board and FR TEG participating in the meetings of the NFR Board and NFR TEG meetings respectively as non-voting members, and reciprocally.
6. For NFR, to the extent that EFRAG is entrusted with standard-setting activities, the NFR Board is likely to require enhanced technical competences, as compared to the current EFRAG Board. We also suggest a NFR Advisory Council to the NFR Board should be created, whose membership could be quite broad, to ensure it captures the participation of stakeholder organisations that show a keen interest in NFR standard-setting.
7. Collecting the views of EU Member States /national public authorities on NFR will be important. We note that there are not yet specific national public authorities dedicated to the NFR subject matter in the EU jurisdictions, but this may change in the future. We suggest considering participation in the NFR Advisory Council as suggested above, or the creation of a body equivalent to the existing Consultative Forum of Standard-Setters (CFSS) for FR that would be dedicated to them only.
8. With respect to the EU institutions and agencies, we suggest their participation in an observer capacity with speaking rights, at each level of the EFRAG organisation, where this would be relevant, i.e. taking into account whether they are particularly specialised in the FR and/or NFR pillars.
9. With respect to the representation of the private sector and civil society, we are strongly in favour of a public-private partnership for EFRAG. Accordingly, we are supportive of their involvement at each level of the organisation (General Assembly, EFRAG (Supervisory) Board, FR and NFR Boards and TEGs), as well as their participation in the funding of the organisation.
10. We support close involvement and/or cooperation between EFRAG and the identified key international NFR standard-setting organisations. Due to the expected scarcity of the competent resources for NFR standard-setting and the limited timeframe to act, it will be important that EFRAG consider the most efficient way to leverage the work

effort that may arise from international initiatives, without duplication, whenever the global response also satisfies the EU needs. Reciprocally, the EFRAG NFR pillar has in our view a key role to play in contributing to global NFR standard-setting processes.

11. To enable the EFRAG structure to achieve its possible mission for NFR standard-setting successfully, it will need additional competent operational resources at the EFRAG staff level, able to assume the level of work involved in establishing and running a standard-setting capability.
12. Finally, considering the proposed governance structure and the need for long-term finance, as well as the fact that the objective would be to possibly develop NFR standards, our view is that the European Commission and the Member States should provide the majority of the funding.

We would be happy to explain our analyses and thought process should this be of interest. If you have any questions or you would like to discuss these matters, please contact Laurence Rivat on +33 1 55 61 67 60 or David Barnes on +44 (0)20 7303 2888.

Yours sincerely,



David Barnes  
Global Regulatory & Public Policy Leader



Laurence Rivat  
EU Corporate Reporting Policy Leader

## 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?**

We agree that the key due process steps as described in paragraph 3.5 are appropriate. We also suggest an 'evidence-based' due process, i.e. an evidence base would be brought demonstrating the need for a particular standard on a particular topic, and how such a standard would support better practices and/or the public interest.

Regarding the publication of materials accompanying a standard such as education material: in our view, the priority should be given to developing standards for non-financial reporting (NFR) that can stand on their own (e.g. for financial reporting (FR) standards, where needed, application guidance is part of the standard and authoritative).

If the standards are developed and written sufficiently clearly and if EFRAG resources are constrained, the development of educational material does not seem to be a priority at this stage.

## 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?**

We are not aware as of today of NFR standard-setting activities in the EU jurisdictions undertaken by specialised authorities. But this may evolve over time when the governments of EU jurisdictions may want to outsource the development and monitoring of this developing activity to dedicated and competent authorities.

The relevant national authorities' involvement within EFRAG's organisation will depend to a certain extent on where they sit within their authority or Ministries, as well as on their remit, powers and technical expertise.

Care should also be taken that EFRAG's organisation remains, and is seen to be, independent from specific political interference. Accordingly, in the absence of dedicated authorities, direct representations from ministries might best be invited to contribute views in an advisory structure, such as an NFR Advisory Council to be created or as an NFR equivalent to EFRAG's Consultative Forum of Standard-Setters (CFSS) dedicated to them only. Those latter bodies could act as a sounding board for the NFR Board.

Alternatively, where there are dedicated Member State authorities for NFR, it could be envisaged that their representative participates in EFRAG's infrastructure, to the extent that they bring relevant expertise in the field. In this case, we could envisage, where appropriate, the following involvement:

- EFRAG General Assembly: members, under the applicable membership conditions
- EFRAG (Supervisory) Board: members
- NFR Board: members
- NFR TEG: members.

### **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?**

It is important that the European Institutions and main agencies (e.g. European Commission, ESAs, ECB...) are able to provide direct input and views at each different level of the organisation where decisions are being made (FR and NFR Boards, FR and NFR TEGs...), as observers with speaking rights. With respect to the more "specialised" European Institutions and agencies (e.g. EEA, Platform on Sustainable Finance...), we suggest that they also participate at each different level of the NFR pillar (e.g. NFR Board, NFR TEG...), also as observers with speaking rights. As we have indicated in our letter to you of 6 November 2020, we generally consider it appropriate to separate the powers of legislation and enforcement.

The direct involvement of EU Institutions and agencies within EFRAG's organisation would enable them to understand and participate in the NFR standard-setting activities and, in return, it is expected that this would contribute positively to the streamlining of the requirements of the different EU regulations.

We would see merits in some coordination of the European Institutions and agencies but we do not think that EFRAG should itself create an additional structure or body to achieve this. We consider that EFRAG would need in the first instance to fully dedicate its resources to the NFR standard-setting activities. If the European Institutions and agencies are not directly involved in the different layers of the organisation, their participation in an Advisory Council or in an equivalent body to the CFSS could be envisaged.

#### **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?**

As we have indicated in our letter to you of 6 November 2020, we strongly believe in the importance and benefits of public-private partnership initiatives, as we consider that this provides for better buy-in and quality of outcomes. Accordingly, we consider that relevant private sector and civil society bodies should be present at each level:

- The General Assembly: they would contribute to the financing of the organisation, as well as participate in its governance.
- The EFRAG Board responsible for the oversight of the NFR Board: we suggest including relevant private sector and civil society representatives chosen for their competence and expertise.
- The NFR Board: we suggest including private sector and civil society representatives chosen for their competence and specific relevant NFR expertise, taking into consideration the need to represent a diverse range of stakeholders.
- The NFR TEG: private sector and civil society representatives chosen for their competence and expertise should be included, covering a relevant range of NFR topics.
- The NFR Working Groups: relevant private sector and civil society representatives chosen for their competence and expertise in the specific NFR topic should be included.

#### **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?**

In our comment letter of 10 June 2020 to the European Commission, in response to its consultation on the NFRD revision, we advocated expanding the scope of entities that would have to report NFR information. We also indicated that we do not consider it necessary to develop a simplified NFR standard for SMEs, but that EU NFR standards should include adequate provisions to ensure proportionality. Therefore, it is important that, in the NFR standard-setting processes, there is

appropriate consideration of SMEs/SMPs' needs and capabilities for providing the envisaged NFR information.

We do not think that it is necessary to have a specific SME/SMP representation at each level of EFRAG's organisation, given that many of the substantive technical issues to be addressed do not depend on the size of the reporting entity and that SMEs/SMPs are often represented in other associations that may be involved at EFRAG's boards levels.

A SME-focused working group would be helpful to advise the NFR TEG (and the other working groups) on the specific needs and limitations of SMEs/SMPs, and the impact of the NFR TEG / working groups' proposals on SMEs/SMPs.

## **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?**

As we indicated in our letter to you on 6 November 2020, we support global standard-setting because global issues need global solutions. Businesses have global supply and value chains, face global risks and have global investors. Most importantly, issues such as climate change and achieving the UN Sustainable Development Goals require international solutions.

We welcome the European Commission's starting point that "*any future possible EU NFR standards must be built on existing reporting standards and frameworks to the greatest extent possible*". We therefore support close involvement and/or cooperation between EFRAG and the identified key international NFR standard-setting organisations. There are currently several international developments. In that respect, please note that we have welcome the role of the IFRS Foundation in the sustainability standard-setting debate.

In our letter to the IFRS Foundation of 30 November 2020, we also acknowledge that "*the EU has an extensive body of experience, as well as a political ambition in the reporting of sustainability information*". We ask that "*The IFRS Foundation and jurisdictional activities, like those in the EU, should be seen as complementary and not as being in competition*". We advocate a building block approach for NFR standard-setting and we indicate that "*global sustainability standards focused on enterprise value developed through the IFRS Foundation's initiative could meet a significant part of the EU's requirements for non-financial reporting standards. The IFRS Foundation should therefore engage with the European Institutions to explore with the EU this building block approach to see how the proposals in the Consultation Paper would assist the EU in achieving their ambitions, whilst avoiding further fractures in the global reporting system. Further, this could help accelerate developments in standards in Block 2, designed to address broader, material sustainable development and companies' impacts on economy, environment, and people, with EU taking a leadership role in driving the creation of the appropriate global governance architecture for such standards. Further matters that reflect particular EU policy priorities and not addressed in either of these standards could be accommodated by supplemental requirements*".

The close cooperation between EFRAG and global reporting initiatives could take place through regular discussions, sharing of information and possible partnering on projects where appropriate.

Due to the expected scarcity of the competent resources for NFR standard-setting and the limited timeframe to act, it will be important that EFRAG consider the most efficient way to leverage the work effort that may arise from international initiatives, without duplication, whenever the global response also satisfies the EU needs.

Reciprocally, the EFRAG NFR pillar has in our view a key role to play in contributing to global NFR standard setting processes.

## **QUESTION 7 - EFRAG BOARD**

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

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

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

**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?**

**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)?**

We agree with the proposed set up of the EFRAG Board, which name may be changed so as not to confuse it with the two other financial reporting (FR) and non-financial reporting (NFR) boards. It seems that this Board would rather act as a “supervisory” board. So we would rather refer to it as the EFRAG (Supervisory) Board.

To be operational, we suggest that the maximum size of this board not exceed say 20 people.

A diverse range of stakeholders, taking into consideration an enlarged EFRAG General Assembly to reflect EFRAG’s new responsibilities in the area of NFR, should be represented. The European Institutions and agencies would sit as observers (see our reply to Q3 above).

We do not see any obstacles to the EFRAG (Supervisory) Board including a representative of each of the respective EFRAG FR and NFR Boards (e.g. the Chair of those two boards), albeit with no voting powers.

We suggest that it is confirmed that the EFRAG (Supervisory) Board is responsible for the proposed nomination of the FR and NFR Board members, to be ultimately approved by the General Assembly (as suggested in paragraph 5.11), instead of the General Assembly directly (as suggested in paragraph 5.1), as it will be best placed to identify the adequate profiles. For good governance, we also consider that the EFRAG (Supervisory) Board and the FR and NFR Boards would have to be chaired by three different individuals, and that FR and NFR Boards Chairs would be invited to sit on the EFRAG (Supervisory) Board as well, with no voting powers.

We also suggest that each of the respective FR and NFR Boards are responsible for proposing the selection of the members of their respective TEG, but that these appointments are subject to a negative clearance of the EFRAG Board. We were somewhat confused by the proposals in paragraph 5.5 where it is indicated that TEGs’ appointments would be the responsibility of the EFRAG (Supervisory) Board, whereas Question 9 questions whether “*EFRAG TEG members are*

*recommended by the EFRAG NFR but appointed by the NFR Board rather than be appointed by the EFRAG NFR Board”.*

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

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

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

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

**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?**

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

We think that the maximum size of the new NFR Board should be around 15 people, to be manageable and effective.

A diverse range of stakeholders from the enlarged EFRAG General Assembly should be represented, respecting a balance between public and private organisations and taking into account expertise and competence as well as gender balance. Some representation on that Board of accounting expertise is in our view essential, to help ensure the connectivity between financial and non-financial reporting.

The European Institutions and agencies would sit as observers (see our reply to Q3 above).

We suggest that the NFR Board members be appointed directly by the EFRAG Board, with both the NFR Board and the FR Board reporting to the EFRAG Board, to ensure cohesiveness and connectivity of reporting and one effective line of communication and reporting to the General Assembly, to which the EFRAG Board is accountable.

Interconnectivity between the NFR Board and the FR Board could be ensured through the Chair of each Board plus maybe another Board member being a non-voting member of the other Board, and through organising joint NFR/FR Board meetings from time to time.

Interconnectivity is a topic of interest to global and international standard setters and frameworks. It will clearly be in the forefront of thinking at IFRS Foundation and/or the Value Reporting Foundation soon to be formed. This is therefore an area where international collaboration might be relevant for EFRAG.

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

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

**Which stakeholders should be represented and in which proportion? Should there be observers? If so, who should be the observers?**

**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?**

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

We think that the maximum size of the new NFR TEG should be around 15 people, to be manageable and effective.

A diverse range of stakeholders should be represented by independent individuals with deep technical expertise and from a diverse range of backgrounds, including academics, industry, investors, NGOs specialised in NFR issues, accountants, etc. No one group of stakeholders should be dominant and the TEG should reflect gender balance.

For observers, see our comments at Q3.

We agree that EFRAG NFR TEG members should be recommended by the EFRAG NFR Board but be ultimately appointed by the EFRAG Board rather than by the EFRAG NFR Board, so as to ensure cohesiveness and balance across both TEGs and because the EFRAG Board is accountable towards the General Assembly.

Interconnectivity between the NFR TEG and the FR TEG could be ensured through the Chair of each TEG plus one member being a non-voting member of the other TEG, and through organising joint FR/NFR TEG meetings from time to time.

### **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?**

Yes, we agree that the European Lab activity could be useful, allowing a diverse group of knowledgeable people to exchange on and disseminate best reporting practices. We agree that the European Lab could also usefully address financial reporting issues and matters of interconnectivity.

That being said, if funding and human resources are lacking, priority should be given to the activities of the FR and NFR pillars first.

### **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?**

**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?**

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

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

As a complement to our views expressed at the previous questions, we would like to emphasize that, to achieve successfully the possible new mission for EFRAG in the field of NFR standard-setting, it is paramount that it is equipped with additional competent operational resources at the staff level. There should be a sufficient number of qualified staff members able to assume the level of work involved in establishing and running a standard-setting capability.

Considering the proposed governance structure and the need for long-term finance, as well as the fact that the objective would be to develop standards, our view is that the European Commission and the Member States should provide the majority of the funding.

Still, it is important that the public-private sector partnership is also reflected in the funding and that the private sector contributes, including via contributions in kind. It is important that an appropriate equilibrium is found between the public and private funding, so that there is sufficient buy-in from both parties and that the sustainability of the organisation is assured. We expect that additional organisations with an interest in non-financial reporting will want to join the General Assembly and it is important that the level of financial contributions requested should also not prove dissuasive.