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Berlin, 12 July 2021

Dear Jean-Paul,

Upfront comments by the ASCG administrative board on EFRAG'S PUBLIC CONSULTATION PAPER - DUE PROCESS PROCEDURES FOR EU SUSTAINABILITY REPORTING STANDARD-SETTING

The ASCG welcomes the opportunity to comment on EFRAG's public consultation paper. At this stage, ASCG is still reflecting about the overall approach to due process of the yet unknown final set-up of EFRAG. But we, the administrative board, would like to submit some upfront remarks about the way how EFRAG foresees the inclusion of the preliminary work of the project task force (PTF) as outlined in this consultation document.

Reporting (and other) standards set by private organisations such as EFRAG, IASB, ASCG and others should adhere to a proper Due Process. The IFRS Foundation's Due Process Handbook contains important principles in this respect, for example transparency and full and fair consultation. As a national standard setter, the ASCG feel committed to such basic due process principles, and we are firmly convinced that any other private standard setting body including IASB and EFRAG should do so, equally.

The letter by Commissioner Mairead McGuinness dated 12 May 2021 contains a clear statement about the expectations of the European Commission regarding the elaboration of sustainability standards. The Commissioner's letter reads: "I therefore encourage EFRAG to put in place interim working methods that build on the experience gained by the Task Force and foreshadow the governance reforms and processes you propose, to ensure transparency and due process in the standard setting process from the beginning." (emphasis added).

The language contained in the aforementioned consultation document in the section "public consultation" regarding due process procedures during the interim phase of the PTF indicates that EFRAG envisages a lighter such procedure. EFRAG's reasoning in this regard is based on the short time frame set by the Commission for the elaboration of core standards. It seems that, in particular, EFRAG intends to adhere to the Commissions call by shortening time frames for public consultations as well as for outreaching to stakeholders and experts. In addition, the consultation document does not address how to ensure transparency by

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EFRAG during the interim phase, e.g. whether meetings and meeting papers including meeting reports will be publicly available.

The ASCG would like to caution that this procedure results in limited stakeholder involvement and transparency that in turn might cause significant negative effects on the quality as well as the acceptance of the core standards. In this context, we would like to also refer to the experience of extremely short consultation period for the draft delegated act on Art. 8 of the EU taxonomy regulation. Also there, ASCG has pointed to the lack of an appropriate consultation period for due consideration of the proposal and high likelihood of technical shortcomings in the final delegated act.

It is our firm belief that the Commissioner's objective of transparency and due process should be fully met by EFRAG also in this interim phase of elaborating standards in order to ensure their general acceptance. This consideration is even more important if the bulk of the elaboration lies within this interim phase of the PTF. Given the high time pressure put by the Commission we acknowledge that EFRAG has to find practicable solutions; however, the Due Process is not the right element for adjustments in our view. To mitigate the problem at least to some degree, EFRAG should make the standards elaboration process by the PTF as transparent as possible, involving public meeting papers and other elements mentioned above.

It goes without saying that these core standards will have far-reaching consequences for reporting companies already by the financial year 2023 and that Germany is particularly affected in terms of numbers.

We hope that our upfront comments are going to help EFRAG in finding the right approach in this important process. We would be happy to continue the discussion in a private conversation.

Yours sincerely,

Dr Nicolas Peter
Chair

Prof Dr Dieter Truxius
Vice Chair