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**Sustainability Reporting
Technical Committee**

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Berlin, 10 May 2022

Re: Getting it right! Proposals for ensuring the success of EFRAG's consultation process on European Sustainability Reporting Standards (ESRS)

Dear Jean-Paul, dear Mr Gentner,

At the end of April, EFRAG has started the next important phase in the journey towards the development of a first set of European Sustainability Reporting standards (ESRS), i.e., launching a public consultation on the Exposure Drafts (ED). The launch of the consultation is an important achievement and has happened under high time pressure. We applaud the high commitment of the PTF-ESRS in its entirety and the substantial work undertaken. Covering the whole range of ESG aspects has been a particular challenge and goes beyond what other international and jurisdictional initiatives have focussed on in the last few months. The accomplishment of the PTF-ESRS is to be valued even higher regarding the short time span given for the development of the ED.

In the past months, the Accounting Standards Committee of Germany has repeatedly commented on the various steps in developing the first set of ESRSs. For us, the development of a high-quality set of ESRSs is paramount. At the time of our commitment to the new EFRAG structure back in November 2021, we tried to capture important aspects for a successful completion of this journey and publicly announced critical success factors for EFRAG's standard setting activities. After this initial commitment to the new EFRAG structure we have repeatedly emphasized these critical success factors, e.g., in our initial comments of February 2022 on the first batch of working papers that had been released back in January 2022.

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At the occasion of the launch of the consultation, we consider it time to come back to some of these critical success factors. We currently hold strong reservations as to whether challenges of the current set-up of the consultation process can be addressed in a satisfactory manner and we would like to make constructive proposals on how to overcome potential shortcomings in the coming weeks:

Challenge 1: Voluminous scope of the consultation documents may hinder stakeholders from effectively responding to the consultation

The documents launched for consultation in late April comprise 13 EDs covering approx. 400 pages with approx. 140 disclosure requirements (DR) in total as per Appendix I of the Cover note. It should also be kept in mind that these 140 DRs are only the ‘tip of the iceberg’ and that the EDs’ application guidance are significantly expanding the issues to be looked at and evaluated in the consultation process. In essence, the number of specific DRs result in a many-fold increased number of single disclosures. They will all have to be reviewed and commented on by stakeholders until 8 August 2022.

In this respect, we highly appreciate the efforts already undertaken by the EFRAG PTF-ESRS to reduce the number of DRs compared to the working papers published earlier this year. However, we do not yet consider these reductions sufficient.

Challenge 2: Tackling a broad array of issues at the same time may deter respondents to focus on the most pressing issues in sufficient depth

There is a high degree of consensus in the European Union to achieve the objectives of the EU Green Deal and its associated political initiatives. In particular, the climate crisis needs immediate actions by all societal groups. In the context of sustainable finance, sustainability reporting by undertakings is a key means to support financial market participants in redirecting funds to sustainable economic activities. The European Commission’s call to EFRAG is an important step in the direction of finding a quick response to this increased demand for sustainability data by asking for the provision of a first set of draft standards already by summer 2022 as proposed in the CSRD draft of April 2021. It is also important to develop sustainability reporting standards for a broad array of issues covering environmental, social, and governance topics. However, the current consultation follows an “now and all at the same time” approach making it difficult for stakeholders to pay sufficient attention to all topics covered. Insufficient depth of responses could deter the quality of the upcoming ESRSs.

Challenge 3: Very little time to deal with a voluminous scope may again hinder respondents to effectively respond to the consultation

We understand that there is high time pressure invoked by the timeline of the CSRD regarding the adoption of delegated acts. The European Commission already requires EFRAG to deliver their finalised technical advice, i.e., the reviewed ESRS, by November 2022. The due process oversight committee of EFRAG’s administrative board reluctantly agreed to a shortened consultation period and would have clearly favoured the 120 days usually foreseen for exposure drafts. In combination with the voluminous scope that the newly established sustainability reporting board has been asked to agree to, it seems quite unrealistic that – even with a 120

days consultation period – stakeholders can respond to the full consultation in sufficient depth, and this is also likely to affect the quality of ESRs.

Challenge 4: The current state of EFRAG’s organisation is not yet sufficiently prepared for a voluminous scope and may fail to process the responses received in the consultation process

Despite having made good progress in its governance reform, EFRAG’s organisation does not yet have the necessary technical staff in order to effectively analyse the expected numerous incoming responses from stakeholders. Neither the chair of the SRB has yet been appointed nor a full-time resource has been selected to lead the SR TEG work, permanently. We understand that these positions are also in the process of being built up but due to the obstacles to recruitment (e.g., relocation to Brussels) these personnel will not be available before late 2022.

Regarding the analysis, it should be kept in mind that stakeholders’ feedback will be collected through a multiple choice / multiple response questionnaire comprising approx. 1.200 single questions in total. However, the most interesting part will be the accompanying text boxes on almost 180 sets of questions where additional qualitative comments on the response(s) will be provided by constituents. A qualitative analysis will also be needed for stakeholder responses that do not use the questionnaire.

A serious consideration of these challenges should result into a serious reflection on how to smoothen the process in order to allow for the intended outcome: a high-quality set of ESRs. To this end, even last-minute changes to the CSRD legislative process itself should not be ruled out per se.

We suggest the following measures:

Proposed Measure 1: Prioritisation of issues; allowing for a staggered approach giving sufficient capacity both for stakeholders and EFRAG

The EU-Taxonomy-Regulation has shown a focus on two environmental goals, climate change mitigation and climate change adaptation. As both aspects are addressed in ESRs E1, we urge EFRAG and the European legislators to give them the highest priority in the processing of the EDs. Furthermore, as the two cross-cutting standards (ESRS 1 and ESRS 2) are designed to provide the fundamentals for an undertaking’s sustainability reporting, we suggest giving them equal priority.

The other standards should become subject to later steps of processing the EDs.

Proposed Measure 2: Expanding the consultation period wherever possible; allowing stakeholders more time to respond with sufficient depth and for proper analysis of responses by EFRAG

EFRAG and European Commission, together with European legislators, should allow for more flexibility regarding the consultation period for the EDs already released for consultation. Given the urgency of the climate standard and the cross-cutting issues as well as the time and capacities needed by constituents, a consultation period of 100 days might be acceptable for

these three EDs. This should be combined with the staggered approach mentioned under proposed measure 1. In other words: The EDs already released for consultation, other than the climate standard and the cross-cutting standard, should be consulted in smaller packages with a consultation period of 120 days per package. If this combination of measures 1 and 2 should not be feasible, a significantly longer consultation would be appropriate in order to ensure high-quality ESRs.

Proposed Measure 3: Accelerate the build-up of technical capacity at EFRAG to increase its ability to respond to responses received in the consultation process

The SRB Chair should be appointed as soon as possible. Also, the full-time resource for the SR TEG Chair has to be found shortly to allow him/her to be up to the immediate challenges. We also urge the European Commission to look at the conditions under which EFRAG can employ technical staff. A maximum flexibility in the hiring of staff is needed to ensure the quick build-up of the technical resources needed in this first critical phase of establishing the first set of high-quality ESRs.

In general, for the development of ESRs and their adoption in the EU, EFRAG and the European Commission should consider using the international baseline approach of the ISSB. This may lift part of the burden of developing European ESRs from scratch and may thus also allow to balance financial needs and required technical staff numbers.

We urge EFRAG, the European Commission, together with European legislators, to make all efforts to consider the measures proposed in this letter in order to support the success of the consultation and to ensure high-quality ESRs.

If you want to discuss these aspects further, please do not hesitate to contact us.

Yours sincerely,

Georg Lanfermann

President