

Jean-Paul Gauzès
President of the EFRAG Board
European Financial Reporting Advisory Group
35 Square de Meeûs
B-1000 Brussels
BELGIEN

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Due Process Procedures for EU Sustainability Reporting Standard-Setting (EFRAG's Public Consultation Paper, June 2021)

Dear Mr Gauzès,

On behalf of the German Insurance Association (GDV), we greatly appreciate the opportunity to comment on the Consultation Paper "*Due Process Procedures for EU Sustainability Reporting Standard-Setting*". In the last two decades EFRAG built an enormous reputation due to its outstanding achievements in the financial reporting area. In the recent past, EFRAG has expanded its expertise and activities into sustainability reporting, providing proof that EFRAG is very well suited for serving the European public interest also in this field of corporate reporting. Building on this rich experience, we welcomed the consultation document on your ad personam mandate on potential need for changes to the governance and funding of EFRAG.

As a matter of fact, we generally support the Due Process Procedures (DPP) proposed in the EFRAG's current Consultation Paper. However, we would like to highlight some essential elements which the final DPP should consider. Our detailed comments are provided in the appendix to this letter.

If you would like to discuss our response further, please do not hesitate to contact us.

Yours sincerely,

German Insurance Association

**Gesamtverband der Deutschen
Versicherungswirtschaft e. V.**

German Insurance Association

Wilhelmstraße 43 / 43 G, D-10117 Berlin
Post-office box 08 02 64, D-10002 Berlin
Phone: +49 30 2020-5000
Fax: +49 30 2020-6000

Rue du Champ de Mars 23
B - 1050 Brussels
Phone: +32 2 28247-30
Fax: +49 30 2020-6140
ID-Number 6437280268-55

Contact: Department Accounting / Risk
Management / Internal Audit

E-Mail: CSR-Reporting@gdv.de

www.gdv.de

Appendix

As a matter of fact, we generally support the Due Process Procedures (DPP) proposed in the EFRAG's current Public Consultation Paper.

It is indeed essential to establish clear and transparent organisational structures and a robust due process for a standard-setting that creates trust among all involved stakeholders to achieve fair results. Such structures and the due process are also vital elements to fostering the usefulness of the EU sustainability reporting standards and gaining support from the relevant stakeholders at the EU level and potentially globally.

In this regard, we welcomed Commissioner McGuinness' letter dated 12 May 2021, in which EFRAG is encouraged "*to ensure transparency and due process in the standard-setting process from the beginning*". However, it is not clear to us from the EFRAG's current Consultation Paper how **transparency and due process** are intended **to be ensured already in the interim period**. Generally, we acknowledge the high time pressure put by the European Commission with its legislative proposal for the Corporate Sustainability Reporting Directive (CSRD) and the related standard-setting process to be set up for the European Sustainability Reporting Standards (ESRS). Nevertheless, it is essential to focus on transparency and due process already from the outset, i.e., also in the interim period. In addition, ensuring transparency and due process already in the interim period is crucial as it is not really clear at this stage how long this interim period will effectively last.

In our view, upon the handover to the EFRAG Sustainability Reporting Board (EFRAG SRB), the EFRAG SRB should thoroughly assess whether any proposals developed by the EFRAG PTF-ESRS should be exposed, even if they were subject to public consultation during the interim phase, to ensure robust governance and strengthen EFRAG's legitimacy, especially if the necessary DPP were not in place during the interim period. We believe that this might be especially important for the first set of ESRS where the European Commission might, to a significant extent, rely on work conducted during this interim phase.

Furthermore, in the EFRAG's current Consultation Paper there is the proposal that the future EFRAG SRB should review *whether* and *how* the recommendations of the former EFRAG PTF-NFRS (non-financial reporting standards) have been followed and decide *whether* further input is necessary from stakeholders to complete the agenda. While we generally agree with this suggestion, this proposal strongly suggests to us however that all these recommendations need to be followed. In our view, this should not be the case, for example, where new findings or developments suggest otherwise, or relevant circumstances have changed (for example, the current

proposal of the IFRS Foundation that the new International Sustainability Standards Board (ISSB) will develop a global baseline for sustainability reporting). Taken all this together, we would thus deem it as appropriate to scrutinise these recommendations and to, in case of doubt, publicly consult on them with stakeholders before they are taken over from the interim phase by the EFRAG SRB.

Additionally, we would like to **caution to generally shorten the time frame of the envisaged public consultations**. Although we agree with the need for a higher level of flexibility for the interim phase of elaborating the first set of ESRS, the interim work needs to be as **transparent and inclusive as possible from the outset**. We deem it essential that any fast-track or simplified due process solutions are appropriate and that there is broad agreement in this regard. In our opinion, this should be a key focus area of the Administration Board and Due Process Committee – which we support, as proposed by EFRAG’s recent Consultation Paper, as a sub-committee of the EFRAG Administration Board. Otherwise, we perceive a high risk of introducing an insufficiently substantiated short-term solution that requires numerous subsequent improvements and respective efforts by preparers, which would be highly detrimental with view to transparency and comparability as well as entail significant additional/double implementation effort. In this regard, we also noted that outreaches seeking input from stakeholders might include consulting with, for example, sustainability reporting standard setters shall only take place *“during the shortened consultation period”* and *“to the extent feasible within the short timeframe”*. As such **outreaches are of essential importance**, we believe that they are indispensable; and we are convinced that they should take place much earlier and, at best, **from the outset**.

It is the interim phase in which the first basic reporting requirements will be determined, and the information needs of Financial Market Participants subject to the Sustainable Finance Disclosure Regulation (SFDR) will be addressed. Hence, the outcome of the work in the interim phase is particularly crucial for the insurance sector.

Also, given that sustainability reporting is a comparably less mature field and that EFRAG just now takes on its new role, we do not believe that **consultations on the work plan** every three years would be sufficient in an initial phase until a reasonable level of maturity has been reached.

Furthermore, and as a matter of principle, considering the **digital taxonomy** that will have to be developed parallel to the ESRS, the same high standards on transparency of the due process should apply.

Finally, we strongly believe that the CSRD will improve the quality and availability of sustainability data at EU level. However, data gaps will prevail at the **global level**, which is a massive challenge for insurers being also international investors.

Hence, we fully support the establishment of the International Sustainability Standards Board (ISSB) at the IFRS Foundation. It remains vital that developments at the IFRS Foundation are directly considered in EFRAG's work on the ESRS and vice versa. Hence, in the DPP, it is crucial to formalise the **coherence and connectivity of the ESRS with relevant global reporting initiatives** in a proper way from the beginning. *For example*, international developments should be considered when determining the work plan. Also, we believe that EFRAG should undertake concrete steps to ensure transparency on **a)** how it will contribute to a global solution and the envisaged timeline in this regard, and **b)** how it will collaborate with international initiatives. *For example*, while an agreement has been signed with Global Reporting Initiative (GRI), it remains unclear to us how the collaboration will ultimately be defined.

Further and more generally, in our view, where the European Commission's CSRD proposal specifies expectations or objectives that are also relevant for the ESRS (e.g., with regard to taking into account the financial sector's specific information demands, building on existing sustainability reporting guidance, or collaborating with international sustainability reporting initiatives), this should translate correspondingly into EFRAG's objectives and, accordingly, be clearly and consistently reflected in the final DPP. Any such expectations or objectives by the European Commission should also represent key areas of focus for the Administration Board and Due Process Committee.