

## Consultation on the Human Rights Reporting and Assurance Frameworks Initiative (RAFI)

Full-Day Convening of Expert Stakeholders in London on April 24, 2014

### CONSULTATION REPORT

On 24 April 2014, the project team for the Reporting and Assurance Frameworks Initiative (“RAFI”) hosted a one-day expert consultation in London. RAFI was established in 2013 by project partners Shift and Mazars, in liaison with the Human Rights Resource Centre for ASEAN. Its aim is to develop, through a consultative process, a twin set of public frameworks: one to provide guidance for companies on what good human rights reporting looks like; and the other to provide guidance on what good assurance of such reporting involves. The objective is that the resulting frameworks become widely-accepted reference points for reporting and assurance with regard to implementation of the UN Guiding Principles on Business and Human Rights (the “Guiding Principles” or “UNGPs”). As such, they should be of use to companies, auditors and assurance providers, investors, civil society organizations, governments and stock exchanges, among others. Further information on RAFI is available in the initiative’s Framing Document.<sup>1</sup>

The London expert consultation was part of the second round of in-depth expert consultations<sup>2</sup>, and involved a cross-section of individuals from companies, non-governmental organizations, government, audit and assurance providers, investors, academia, and other experts. All participants took part in their personal capacities and not on behalf of their organizations, and the consultation was held under the Chatham House Rule in order to stimulate open and frank conversation. Annex A contains the agenda of the expert consultation and Annex B lists the participants. A similar in-depth expert consultation took place in New York on 16 May 2014. A planned consultation in Jakarta was postponed due to the national elections and interviews with the participants are proceeding instead, pending the identification of new dates in the autumn. The reports of RAFI consultations that have taken place to date are available on RAFI’s portal.<sup>3</sup>

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<sup>1</sup> RAFI Framing Document (November 2013), available at <http://business-humanrights.org/media/documents/rafi-framing-document-2013.pdf>.

<sup>2</sup> The first round of expert consultations were held in London on 17 October 2013, in New York on 23 October 2013, and in Jakarta on 20 November 2013.

<sup>3</sup> RAFI Portal, available at <http://www.business-humanrights.org/Documents/RAFI#127250>.

The primary focus of this consultation was to further the development of the RAFI human rights reporting framework. The discussions focused on the overall shape of, and approach to, the reporting framework, as well as some illustrative examples of the kinds of ‘smart questions’ that might form its content. Specifically, the consultation discussed four substantive areas: (i) current reporting vis-à-vis the UN Guiding Principles, (ii) the overview of the outline construct for the human rights reporting framework, (iii) illustrative ‘smart questions’ for the human rights reporting framework, and (iv) lessons learned from existing assurance for the human rights assurance framework.

### ***Session 1: Current Reporting vis-à-vis the UN Guiding Principles***

#### ***Overview from RAFI project team on current reporting vis-à-vis the UN Guiding Principles:***

*During the first round of RAFI expert consultations in October 2013, participants asked to what extent current company disclosure reflects the UN Guiding Principles. Shift commissioned research that could offer an initial response to this question.*

*This desktop research was based on recent disclosure by 43 companies (mostly US and European) across 8 sectors (apparel; automotive; banking; fast-moving consumer goods; food, beverage, agriculture; information and communications technology; oil, gas and extractives; and pharmaceuticals), through a variety of formats (annual reports, CSR reports, GRI reports, disclosure of internal documents, other information on websites etc.).*

*The research reviewed corporate disclosure of human rights policy commitments, due diligence processes, remediation efforts, and grievance mechanisms to:*

- understand to what extent current company disclosure covers key elements of the Guiding Principles;*
- understand which particular Guiding Principles tend to have greater vs. weaker disclosure; and*
- identify examples of disclosure that represent the “leading edge” of reporting in this area.*

*The analysis in the research focused on:*

- the **scope** of disclosure: what, if anything, is discussed in relation to the key elements in the ‘headline statement’ of each relevant UNGP; and*
- the **robustness** of disclosure: what, if any, supporting evidence is provided, such detail on processes; examples; and case studies.*

*The project team shared initial findings with participants. For further information on the results of the research, see Shift, Evidence of Corporate Disclosure relevant to the UN*

**Evidence was highlighted that the scope of information disclosed by companies is increasing, with an enhanced focus on how corporate policies and processes play out in practice on the ground.** The Business & Human Rights Resource Centre's company response mechanism, pursuant to which companies are invited to provide information on alleged human rights impacts, has solicited over 2,000 responses from companies to date. The extent to which companies provide information in response varies significantly, depending on where the companies are based: the general response rate by companies is 70%, with 50% from China, 35-40% from Russia, and 90% from European and North American companies. The information disclosed by a company is seen as meaningful where the company provides a broader picture of its human rights policies and processes, including an analysis of their strengths and weaknesses and how they work in practice.

**Participants underscored that reporting can help initiate internal conversations on human rights.** Although reporting is for an external audience, it can act as an internal trigger for change, driving better internal processes, business practices, and decisions. Reporting was also seen as helpful in opening a conversation between companies and external stakeholders.

**It can be challenging to determine which human rights issues and processes should be reported on.** It was noted that a company's suppliers and other business partners also need to have good systems and processes in place to provide the necessary information (although, in practice, this can be supplemented with the company's own assessments). The importance of meaningful stakeholder dialogue to better assess a company's risks from the rights-holders perspective was also highlighted. Some commented that it can be hard for a company to report on processes that it is still implementing: it won't necessarily have clear figures or outcomes to report, and companies often prefer to disclose something that has taken place, rather than an ongoing process.

**Participants highlighted that a human rights reporting framework will be useful for several reasons:**

**1. to help guide companies on what human rights reporting means in practice, especially since such reporting is increasingly required by law and stock exchanges.** Participants emphasized that companies do not always understand what human rights means for them, how to integrate human rights in their due diligence process and day-to-day business decisions, and how to report on human

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<sup>4</sup> Shift, *Evidence of Corporate Disclosure Relevant to the UN Guiding Principles on Business and Human Rights* (June 2014), available at <http://shiftproject.org/sites/default/files/Evidence%20of%20Corporate%20Disclosure%20Relevant%20to%20the%20UN%20Guiding%20Principles%20on%20Business%20and%20Human%20Rights.pdf>.

rights. Another challenge is to obtain a systematic approach to human rights since business units are typically at different levels of understanding. In some countries, speaking about human rights is seen as referring to the government's conduct, rather than the companies' conduct, which may complicate human rights reporting. Further, confusion has arisen on the UN Guiding Principles, with some companies and consultancies using them to adopt a tick box approach, rather than a meaningful discussion on human rights policies and processes.

**2. to counter a compliance-type approach to reporting.** Regulatory schemes that require human rights reporting run the risk of focusing companies on the minimum they have to put into the public domain, rather than pushing them towards meaningful disclosure of risks, how they are managed, and lessons learned from challenges. Participants noted that in reality the primary designated audience of human rights reporting will shape the information disclosed. The new EU directive's model of focusing on stakeholders may lead to less compliance-focused reporting than the UK model which is focused on investors.

**3. to help address the current "dearth and deluge" of human rights-related information.** It was noted that a large amount of sustainability-related information typically needs to be trawled through to find the relevant human rights-related information. Once found, the information that is important for external stakeholders to know, such as the company's key human rights risks and impacts, tends to be weak or absent. Guidance on what companies should report with regard to human rights is necessary to help improve this disclosure.

**4. to provide guidance on what is meaningful for companies to report and for readers to know regarding how companies manage their human rights risks.** Participants noted that reporting should not only cover which impacts have been assessed, but also how companies are acting on these impacts. In addition, it should push companies to disclose actual risks and impacts, even if disclosure of policies and processes alone tends to be preferred for commercial reasons.

**Participants also provided a number of suggestions to consider for the human rights reporting framework:**

**1. Some company participants remarked that the reporting framework should enable companies to report on their positive impacts as well.** Although the construct of respect for human rights focuses on 'doing no harm' and risk management, when companies respect human rights, they can move from doing no harm to doing good. This positive framing can facilitate internal buy-in to what the company is seeking to achieve. One idea could be to find common indicators for positive social impact within the RAFI framework.

**2. It will be important for reporting to include information on how the company embeds consideration of human rights throughout its operations.** This could include the incentives it provides to its staff to respect human rights and how it has considered the long-term impact of certain business decisions. For instance, stabilization clauses in contracts are often not seen as human rights issues, but have human rights implications in the long run. The impacts of clinical trials were cited as another example.

**3. It will be helpful for companies to have clarity on what human rights due diligence looks like in their specific sector in order to report on it fully.** The Organisation for Economic Co-operation and Development's ("OECD") work on due diligence for responsible supply chains of minerals, for instance, provides tailored due diligence recommendations for each actor in the value chain, which help companies at different points in the chain see what they need to report on.<sup>5</sup>

## **Session 2: Overview of Outline Construct for the Human Rights Reporting Framework**

### **Overview from RAFI project team on the outline construct for the human rights reporting framework:**

*The RAFI project team circulated in advance of the consultation a draft outline construct for the human rights reporting framework. This describes the possible categories for the framework. Although the framework is focused on human rights, it is assumed that most companies would include the information in a broader annual report, sustainability report or other form of disclosure, rather than as a self-standing report. The RAFI project team is in conversations with GRI regarding how the framework will dovetail with GRI G4<sup>6</sup>. The outline construct refers to a "reporting entity", so that the human rights information can be provided at the corporate or at the operational level.*

*An annotated description of the draft outline construct that was discussed at the consultation is available online:<sup>7</sup>*

- *The first (green) sections of the outline construct elicit some general, overarching information regarding the articulation of the company's human rights policy commitment and measures to embed it in company culture and practices (see*

<sup>5</sup> OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, available at <http://www.oecd.org/daf/inv/mne/GuidanceEdition2.pdf>

<sup>6</sup> GRI and RAFI collaborate to leverage the power of business to advance respect for human rights (December 2013), available at <https://www.globalreporting.org/information/news-and-press-center/Pages/GRI-and-RAFI-collaborate-to-leverage-the-power-of-business-to-advance-respect-for-human-rights.aspx>

<sup>7</sup> Draft Outline Construct for RAFI Reporting Framework (April 2014), available at <http://business-humanrights.org/media/documents/rafi-outline-consultation-apr-2014.pdf>.

UNGP 16).

- *The subsequent (red) section provides a 'filter point' section through which the reporting entity would identify its salient human rights risks across its business activities and relationships, and justify how these were identified. It would also explain here any decision to focus its reporting about those salient risks on particular geographies, whether the same geographies for all risks or different geographies for different risks.*
- *The subsequent (blue) sections of the outline construct would then elicit more specific information about each of the salient human rights risks identified, with regard to specific policies (see UNGP 16), stakeholder engagement (see notably UNGPs 18, 20, 21, 22), risk assessment (see UNGP 18), integration and action (see UNGP 19), tracking (see UNGP 20) and remedy (see UNGPs 22, 29 and 31). Communication on how the reporting entity addresses its human rights impacts (see UNGP 21), other than the preparation of this human rights disclosure, would be included in the section on stakeholder engagement.*

*While the disclosures on 'assessing' and 'acting' are more forward-looking in nature, and the disclosures on 'tracking' and 'remedy' are more backward-looking in nature, all sections would call for the company to disclose practical examples with regard to specific cases, potential and actual impacts.*

- *The final (yellow) sections of the outline construct indicate the potential content that might populate the reporting framework in relation to each of the green and blue sections. This would include (a) some explanation of what is being looked for and why, (b) questions to elicit narrative responses (and possible indicators), (c) cross-references to respected industry/issue-specific guidelines and indicators, and (d) some illustrative examples of what responses might look like in practice.*

***Participants welcomed the outline construct for the human rights reporting framework, and underscored the importance of tying it back to the UN Guiding Principles.***

Participants saw the outline construct as sound and simple, while providing the necessary information. Many suggested it could help encourage a systematic approach to human rights data collection, while allowing room for companies to delve into some case studies. It was seen as wise to systematically tie the framework back to the UNGPs, to emphasize that it builds upon a document that has been widely accepted.

***Participants also noted the importance of describing how the RAFI framework fits within broader reporting frameworks, in particular with regard to the definition of materiality.***

Many felt that companies would benefit from guidance on how to identify their salient human rights risks, and how this differs from the materiality process used by other reporting frameworks. GRI G4 for instance includes a section on how to use that

framework with other reporting frameworks. In particular, for sustainability and financial reporting, what is material to report depends on who the audience is. By contrast, in the human rights arena, the reference point is not the reader of the report but the companies' impacts. This is why the RAFI reporting framework adopts the term of 'salience' which refers to impacts and risks to people.

***A critical factor in determining whether the reporting will be helpful or not hinges on whether companies accurately understand what their salient human rights risks are.*** It was suggested that the reporting framework should include guidance on how companies can impact human rights, but avoid specifying limited lists of salient rights for each sector, which would risk tick box exercises and ignore the fact that salient risks change over time and with context. Examples of guidance on sectoral risks were raised, including those of the International Council on Mining and Metals' ("ICMM"), which identifies over 15 rights that mining companies can impact;<sup>8</sup> and the Access to Medicine Index, which focuses on the right to health, while making clear that pharmaceutical companies can impact other rights as well.<sup>9</sup> It was suggested that the RAFI reporting framework should make clear that the rigour of the process followed to identify the salient rights, including inputs from stakeholders, is more important than the outcome. It was also proposed that this process should be able to be reviewed and assured by an external assurance provider, as is the case for instance for ICMM members.

***The human rights information should be provided in a manner that is easy for stakeholders to find, accompanied with contextual information on the company.*** The basic information on the company (e.g., information on the company's business model, the regions where it operates, etc.) is not included in the outline construct, so it will be particularly important for the reporting to refer to the company's broader disclosure of this information, to contextualize the human rights-related information. In this regard, the trend toward web-based reporting was seen to provide a number of possibilities, not least in linking between related areas of information and helping the reader navigate it all.

***At this stage, it is appropriate to allow flexibility for corporate groups in whether the reporting framework is used at the corporate group level or at the level of individual subsidiaries or business units.*** One school of thought was that if the company has a group-wide commitment to respect human rights, then it should take responsibility for reporting across the group and create a consolidated human rights report. This would also encourage Board ownership of the reporting. At the same time, there was a concern that corporate-level reporting would be less operational and less useful for affected stakeholders, as it aggregates the human rights risks across all countries and operations. A

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<sup>8</sup> ICMM, *Human Rights in the Mining & Metals Industry: Integrating Human Rights Due Diligence into Corporate Risk Management Processes* at 12 – 14 (2012) available at <http://www.icmm.com/document/3308>

<sup>9</sup> *Access to medicine index: Methodology*, available at <http://www.accesstomedicineindex.org/methodology-0>

geographical breakdown was seen by some as a useful lens, enabling particular challenges in specific areas to be highlighted.

***Participants emphasized that because human rights due diligence is an ongoing process, human rights reporting needs to take place on a continuum.*** The reporting needs to clearly demonstrate how the company is reviewing its human rights commitment and its salient human rights risks over time. Further, the idea of a continuum in the reporting was seen as helping companies to demonstrate progress over time, and enabling readers to evaluate progress. One proposition was for the outline construct to specifically request companies to disclose its targets over a multi-year period, so that the idea of a 'journey' is not used to delay progress. These targets could in turn be linked to executive performance rewards. Another idea was for companies to include data that highlights trends over time. It was also noted that this kind of approach requires report readers to recognize that implementation takes time and there are no instantly perfect results. Some participants also noted internal resistance within companies – notably from the legal division - to disclosing this type of information, whether for liability reasons, because it did not show a 'perfect picture' or because it tied the company to targets that may not be achieved.

***Where the reporting framework carves out disclosure of specific types of information (for example, commercial and particularly sensitive information), it may be helpful to agree upon these categories upfront.*** Experience within the OECD context demonstrated that a common understanding of what kinds of information can legitimately be excluded from reporting helps strengthen the reporting and avoid problems later on. Any potential carve-outs should not be used by companies to exclude information that is manifestly important for readers.

***Some participants asked whether it would be possible for the RAFI reporting framework to enable comparability amongst companies.*** It was suggested that investors in particular would welcome such comparability. There was discussion of the balance to be struck in this regard: if the information provided is very company-specific, comparability becomes more difficult; at the same time, the information needs to be company-specific to enable a more detailed understanding of how it is addressing human rights.

### ***Session 3: Illustrative 'Smart Questions' for the Human Rights Reporting Framework***

#### ***Overview from RAFI project team on the illustrative smart questions for the human rights reporting framework:***

From February to April 2014, the RAFI project team interviewed around 20 individuals from companies, investors and civil society organisations to discuss the types of question and indicator that would elicit information that it is meaningful for stakeholders to read, viable for companies to provide, and which supports good human rights due diligence. The



resulting first draft of ‘smart questions’ that could provide core content for the RAFI reporting framework are available on the RAFI portal.<sup>10</sup>

The aim is for these questions to be limited in number and clear in their language; open enough to allow for responses that are appropriate to different sectors, issues and operating contexts; and targeted enough to elicit the intended kinds of information in a clear and relevant form.

In line with feedback from stakeholders, the RAFI project team has prioritized the development of ‘smart questions’ at this stage. However, this does not mean that the RAFI reporting framework would not include indicators. There are several possible approaches to the use of indicators. The reporting framework could: (1) include self-standing indicators that are useful by themselves or in the context of the answer to a particular question; (2) cross-reference indicators that have been identified through industry- or issue-specific initiatives, illustrating where they would fit into the RAFI framework for relevant companies, and/or (3) solicit information from companies on the indicators that they have been using and the results they show.

The RAFI project team requested general views on these draft questions as well as views on the use of indicators.

***Investors underscored the need for reporting to convey the role of the corporate-level Board of Directors in relation both to the company’s human rights performance and to the information it discloses.*** This was widely seen as important even if the substance of a report might focus at the level of subsidiaries or business units. The draft questions about ‘embedding’ the human rights policy commitment were viewed as particularly important. It was stressed that they should address the corporate culture created from the top, and provide confidence to investors that the Board is sufficiently skilled and experienced to provide oversight of the company’s human rights risk management. This includes knowing how the top-level commitment to respect human rights is communicated internally and translated into specific actions that are clear and effective in bringing change within the company. The creation of a Board committee with a corresponding operational-level committee was seen as one indication of the importance the Board places on human rights. Various participants also stressed the need for disclosure of whether the Board vets reporting on human rights and stands behind what is written.

***Participants underscored that the RAFI reporting framework should remain primarily question-driven, with indicators providing support to illustrate some (but not necessarily all) of the questions.*** Indicators do have value, and they can help provide an early warning sign and track progress within a company. At the same time, it was generally felt that

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<sup>10</sup> RAFI Examples of Smart Questions that Elicit Meaningful Information, Draft for Discussion April 2014, available at <http://business-humanrights.org/media/documents/rafi-smart-questions-apr-2014.pdf>.

indicators alone are seldom helpful as they do not provide the context to understand the information provided. Some suggested that the RAFI reporting framework could provide guidance on the appropriate kinds of metric for companies to use. It was also felt that the framework could signpost to existing work on indicators, such as within GRI. The general sense was that indicators should push companies to improve their human rights performance. For instance, a decision not to pursue a business opportunity because of findings from due diligence is telling about the robustness of the company's processes.

***There should be careful consideration of the relative merits of (i) direction on what companies should report (with leading questions), and (ii) flexibility so that companies can choose what to emphasize (with open questions).*** It was noted that leading questions help companies know what good practice looks like, but can also lead to a tick box approach to managing human rights risks; more open-ended questions allow flexibility for companies in their responses, and allow readers to further probe for information where relevant. The project team highlighted a wish to avoid the reporting framework becoming a due diligence manual or compliance assessment tool, which are very different products. One proposition was to use largely open questions, but include explanation, to point the user towards the intent of the question, good practice and/or illustrative examples. Some felt that where the UNGPs clearly provide for a preferred approach (for instance, the need to focus on risks to human rights, not to the company), leading questions might be more appropriate. The general view was that outside these kinds of specific areas, the questions should not suggest a normative answer.

***Participants' further suggestions with regard to the smart questions included:***

- ***the need to encourage companies to disclose their underlying documents as well.*** Transparency in the underlying documents referenced is key for assessing the robustness of the information provided. For instance, if a policy is not transparent, a reader cannot judge the information shared on embedding the policy. There is an increasing trend for companies to make their policies and other key documents public, which will be helpful for this reporting.
- ***the need to ensure that this framework can be used by smaller companies.*** Could there be a few overarching questions to simplify the framework, under which other more detailed questions could sit? The critical issues for smaller companies to focus on could also be highlighted. This would also help encourage larger companies that are just beginning to report on their human rights performance get started.
- ***the need to reflect progress made on implementing the UNGPs.*** If there are basic overarching questions, it will be important that these are seen as the start, not a resting point. The structure of the framework should push companies to answer more questions over time, and more fully. Further, there is a need to embed the temporal dimension across the content of reporting to avoid the same information being reported each year.
- ***the questions should be simple, and not include multiple questions in one.*** Some could be tightened to avoid unintended or irrelevant responses, but also not shut

down legitimate avenues of response. Different framing may trigger different types of responses, and the piloting can test this out. Liaising with experts who conduct social surveys would be helpful to make sure that the language is carefully crafted.

- ***the framework should allow that responses to some of the questions about salient risks would be the same for each risk.*** For instance, the information provided in response to stakeholder engagement and remediation may be similar for different areas of risk. In this case, the reporting should facilitate an easy reading of the report, and not repeat information unnecessarily.
- ***RAFI should consider the cost to the company of responding to some of this information.*** In particular, answering perception-based questions can have significant costs. The proposition should be that it's of real value for the company to know whether the processes it is spending time and resources on (for instance, its grievance mechanism) are effective in practice. This should not be seen as a separate process to the work that the company is already undertaking to determine the effectiveness of its human rights-related processes.

**Participants provided the following as examples of the kinds of information that they find particularly meaningful to know when reviewing a company's human rights performance vis-à-vis the UNGPs:**

*Human Rights Commitment and Embedding:*

- How does the reporting entity articulate its commitment to human rights and what does it address?
- How can the reporting entity demonstrate the importance it attaches to its human rights policy?
- How much time does the Board of Directors spend on human rights issues, and who on the Board is responsible for such topics?
- What were the human rights-related issues that reached the Board of Directors?
- Is someone/a business function tasked to set core objectives related to human rights? If so, how is this person/function held accountable for doing this in a measured way?
- Are there incentives for staff to respect human rights in their day-to-day work, and what are they? How does the reporting entity use incentives to reward the right kind of behavior? And how does the reporting entity ensure that its measures for embedding do not provide perverse incentives (for instance, that metrics tied to remuneration do not discourage staff from reporting problems; or that rewards for the rapid resolution of grievances does not incentivize less meaningful resolutions). The reporting framework can draw upon the work done in the health and safety field in this regard.
- How are workers treated when they raise a human rights issue?
- How important is human rights seen to be vis-à-vis sustainability? How are human rights connected with the other issues the company is looking at?
- How does the company prioritize its actions related to human rights?
- Who is accountable for human rights-related goals?

- How is internal information relating to human rights collected, analyzed and transmitted from the operational level to management/ board levels?
- How does the human rights function feed into discussions on risk and strategy that are taking place?

*Focus of Reporting:*

- Which business functions, and which geographical location, are targeted by this reporting?
- What stakeholder input informed the decision of salient risks?
- How is it ensured that the process for identification is ongoing?

*Stakeholder Engagement:*

- How does the reporting entity approach engagement with stakeholders? How does it choose who to engage with, what to engage on, when to engage and how to do it? Have the right stakeholders been consulted?
- The explanation could recognize differences in approach to stakeholder engagement depending on factors of size and severity.

*Integrating and Acting:*

- Which collaborative and industry initiatives does the reporting entity participate in? Why is collaborative action selected for a specific issue? How does the reporting entity demonstrate that its participation in collaborative and industry initiatives is about exercising, not outsourcing, the company's own responsibility?
- Would it be possible to single out the government as a separate stakeholder in integrating and acting? It is especially important in areas of conflict to know to what extent the company has a relationship with government and how this relationship helps to minimize potential harm. It will be difficult for companies to report on this. It may be easier for companies to report on positive lobbying, such as meetings that it has with government officials to press certain issues.

***Session 4: Lessons Learned from Existing Assurance for the Human Rights Assurance Framework***

***Overview from RAFI project team on the lessons learned from existing assurance for the human rights assurance framework:***

During the first round of RAFI expert consultations in October 2013, the RAFI project team noted the widely differing ways in which the terms 'assurance' and 'audit' are used by different stakeholders from different fields of practice. In response, Adam Carrel from Ernst & Young, a participant in the October 2013 New York consultation, undertook to provide an overview on this issue, which represented his perspectives and not necessarily those of Ernst & Young.

The paper included a description regarding the difference between *non-financial audit* (geared towards confirming a certain facility/asset meets a certain standard at a certain time) and *non-financial assurance* (geared towards confirming that an entity's processes imply that all of its assets and activities are likely to converge towards an acceptable standard). It also offered perspectives on the relative strengths and weaknesses of current audit and assurance models and lessons that RAFI might draw from them, notably that:

- *the framework could move beyond certain weaknesses in social audit by setting out process requirements for credible assurance; and it could move beyond some current limitations of assurance by guiding assurance providers to include meaningful information in their public opinion;*
- *the framework could stipulate that all – or at least some core minimum – of a report must be assured, and require that reports be assessed against all relevant criteria (eg completeness, materiality, accuracy), to avoid current uncertainties as to what assurance covers and therefore what it means in practice;*
- *the framework could avoid tick-box assurance by stipulating that assurance processes should start with a review of how the reporting company identified its 'salient risks'; assess the appropriateness and effectiveness of processes rather than just their existence; and review whether processes described apply across a company's operations, and not just in one area.*

The RAFI project team shared the paper with participants to further advance collective thinking about the RAFI assurance framework. The paper is available on the [RAFI project portal](#).<sup>11</sup>

***It's important to understand the quite varied roles that assurance can play.*** One participant described different purposes of assurance, from a policing type role, to finding fault in the completeness or accuracy of information, to working with the company on improving its processes. He also laid out different roles that external assurance can play and how companies might move from one to the next:

- Level 1: providing company management with a confidential, independent review of the company processes in place;
- Level 2: assisting and advising the internal audit function with its own review of company processes; and
- Level 3: reviewing the company's external reporting and issuing a public opinion.

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<sup>11</sup> Adam Carrel, The Human Rights Reporting and Assurance Frameworks Initiative: Considerations for the development of an assurance framework (April 2014), available at <http://business-humanrights.org/media/documents/adam-carrel-white-paper-rafi-apr-2014.pdf>.

It was suggested that many companies will not be ready for external assurance immediately, and should take a phased approach. External assurance becomes more important as the company engages with a broad range of external stakeholders.

***Another participant with assurance expertise underscored the importance of assessing how top management's commitment to run the business responsibly affects the company's workers, through to its employee service providers, suppliers, joint venture partners and sub-contractors of sub-contractors.*** Assessing whether human rights are integral to how a company conducts its business should be done through an interview-based and observation-based exercise, rather than a tick-box exercise. The evaluation can be done at both the site and/or corporate levels. Challenges include the fact that as some issues are not identified as human rights issues, it can be difficult for some business functions to acknowledge responsibility, and there's a need to go deep into the value chain. This exercise can also be helpful to identify good practice within the company. The key for success is that the action plan resulting from the assessment is owned by the business.

***It is crucial that the assurance framework not be abused. The participants discussed a number of risks involved with assurance:***

- That the assurance provider hedge its assurance with so many caveats that the assurance becomes meaningless. For instance, if an assurance provider bases its conclusions on the "assumption that the data and information is complete, sufficient and authentic", then the assurance does not add any value to the report or the readers of the report.
- That assurance providers do not have experience engaging meaningfully with external stakeholders, including civil society organizations, to evaluate the company's processes.
- That the assurance provides a cover for the company and is seen as guaranteeing the company's processes, making it more more difficult for external stakeholders to highlight misconduct. For instance, one UK mining company operating in India received a strong grade from its assurance provider for conforming to GRI indicators, and yet had not demonstrated respectful operations on the ground.
- That the assurance provider has a perverse incentive not to highlight inaccuracies since it is seeking to build business with the company being assured. (At the same time, it was also noted that being paid directly by the company is historically typical and widespread in audit and assurance contexts, and that this is why professional and ethical standards and oversight of the profession exist.)

***Some suggestions to address these challenges included:***

- The RAFI assurance framework could require certain professional standards and oversight to be met in order for the assurance to be formally recognized. This could build on precedents in other fields of assurance where professional independence has to co-exist with fee-paying arrangements. Independent governance for the framework's management would be important in this regard.

- Instead, or in addition, one could consider some kind of fund for assurance to separate fees from service provision.
- Standards will be needed to ensure the integrity and skillset of those providing assurance under the RAFI assurance framework, which would be linked to oversight mechanisms. Training of the relevant assurance providers will also be important.
- A minimum level of reporting on human right performance could be defined, along with a minimum scope and standard for assurance, below which the company would not be able to obtain assurance. In other words, the company would be limited in how it narrows the scope of engagement with its assurance provider.
- The Board could be required to sign off on the human rights reporting, which in turn would add a layer of accountability at the Board of Directors' level for the information disclosed.

***The participants highlighted a number of elements that they felt were important to boost the value of the assurance being provided:***

- The assurance framework should not be limited to guiding external assurance processes. It should also be of value to the internal audit function, which may typically be tasked with reviewing human rights performance one or more years before a company considers having external assurance. As such, the framework should also help the company improve its internal processes.
- The assurance provider should look to the substance and accuracy of the information being disclosed, rather than the quantity of information alone. The assurance provider should also be looking at the effectiveness of the processes being reported on.
- It should be made clear that the focus is on assurance of the report, and not assuring or certifying a company's processes and overall performance. At the same time, the assurance provider should be playing a role in pushing companies to improve their processes.
- It should be made clear when the process relies on pre-existing external assurance (for instance, sustainability assurance or financial audit). In the UK, an external auditor cannot now rely on the work of internal audit without having undertaken further verification work and assessed the objectivity of the internal auditors. The RAFI framework might take the same approach.
- If important areas have been missed from the report being assured, or if information provided is misleading, the assurance provider should push the company to disclose or correct the relevant information. If this is not done, the assurance provider should refer to this in its public statement/opinion.

***Participants also highlighted the need to learn from other assurance processes in place.***

For instance, ICMC has assurance criteria which are applied against the matters contained in the ICMC Sustainable Development Framework. Learning from mainstream assurance was also seen as valuable, as financial and non-financial reporting and assurance is increasingly merging. For instance, in the UK, human rights information is to be provided

in the company's strategic report, which in turn is contained in the company's annual report which is verified by auditors.

### ***Next Steps***

The project team shared a tentative timeline for the remainder of the RAFI process and outlined the key steps envisioned:<sup>12</sup>

- Similar consultations are planned in North America and ASEAN<sup>13</sup>. All reports will be made public and posted on the RAFI portal.
- The RAFI project team will review all the feedback received to articulate what this means for the way forward. This will include a refinement of the outline construct and smart questions, based on the comments and suggestions received.
- There will be a third round of expert consultations in the second half of 2014 to further advance the reporting framework and begin more substantive work on the assurance framework.
- A pilot process is planned with a large multinational, starting in the summer of 2014, to test the robustness of the reporting framework and to assess what responding to these types of questions will look like in practice. Learning from this pilot will be fed back into stakeholder consultations. Further pilots of both the reporting and assurance frameworks are planned for 2015 with companies in different sectors and regions.

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<sup>12</sup> A 2014-2015 tentative calendar for RAFI, which will be further driven by the needs of the consultative process, can be found on the RAFI portal. See <http://business-humanrights.org/media/documents/rafi-tentative-calendar-2014-2015.pdf>.

<sup>13</sup> Since this consultation, it has become apparent that the consultations originally planned for Jakarta in June need to be postponed due to the election period in Indonesia. Instead, the RAFI team will hold phone conversations with those who participated in the November 2013 ASEAN expert consultation in order to update them on progress and seek their feedback. Replacement dates for an in-person consultation will be identified as soon as possible.



**Annex A: Agenda for Expert Consultation**

**Consultation on the Reporting and Assurance Frameworks Initiative (RAFI)**

Full Day Convening of Expert Stakeholders

**London, April 24, 2014**

**At the office of Jones Day, 21 Tudor St, City of London, EC4Y 0DJ**

**Agenda**

- 9:30 – 10:15 am**      **Welcome from Shift & Mazars**  
Agenda & Objectives  
Opening briefing: Review of project process to date
- 10:15 – 11:15 am**      **Current reporting vis-à-vis the UN Guiding Principles**  
The RAFI project team will provide an overview of research into how leading companies are currently reporting against the UN Guiding Principles. Discussion will explore in what ways this might inform the approach to RAFI’s reporting framework, in terms of both strengths and weaknesses in current reporting patterns.
- 11:15 – 11:30 am**      ***Coffee break***
- 11:30 – 1:00 pm**      **Overview of outline construct for the human rights reporting framework**  
The RAFI project team will provide an overview of a proposed outline construct for the reporting framework, followed by discussion of how it might best be developed or adapted.
- 1:00 – 1:45 pm**      ***Lunch break***
- 1:45 – 3:15 pm**      **Illustrative ‘smart questions’ for the human rights reporting framework**  
The RAFI project team will provide examples of the kinds of ‘smart questions’ that interview-based research has suggested could usefully be part of the content of the reporting framework, followed by discussion.
- 3:15 – 3:30 pm**      ***Coffee break***
- 3:30 – 4:30 pm**      **Lessons learned from existing assurance for the human rights assurance framework**  
The RAFI project team will present research on different forms of existing assurance, to feed into a conversation about what lessons can be offered regarding perceived strengths and weaknesses for

the development of RAFI's assurance framework.

**4:30 – 5:20 pm**

**Other critical issues**

This session will provide an opportunity to return to key issues from the day's discussion that need further debate, or to address new questions that have arisen.

**5:20 – 5:30 pm**

**Conclusions and next steps**

## **Annex B: Participant List**

*Organizational affiliations are listed for participant identification purposes only. Participants attended in their personal capacities and were not asked in any way to represent the views of the organizations for which they work.*

### *Expert Participants*

1. Sue Almond, Association of Chartered Certified Accountants (ACCA)
2. Marilyn Croser, Corporate Responsibility Coalition (CORE)
3. George S. Dallas, International Corporate Governance Network (ICGN)
4. Damiano de Felice, London School of Economics (LSE)
5. Laura Espinach, Global Reporting Initiative (GRI)
6. Peter Frankental, Amnesty International UK
7. Tyler Gillard, Organisation for Economic Co-operation and Development (OECD)
8. Rosey Hurst, Impactt Limited
9. Kate Jefferies, International Integrated Reporting Initiative (IIRC)
10. Karen Jochelson, Equality and Human Rights Commission (EHRC)
11. Mauricio Lazala, Business & Human Rights Resource Centre (BHRR)
12. Ruth Willis, Foreign & Commonwealth Office (FCO)
13. Stephanie Maier, Aviva Investors
14. Marcela Manubens, Unilever
15. Sofie Nystrom, H&M
16. Atul Patel, PwC
17. Cathrine Poulsen-Hansen, Danish Institute for Human Rights (DIHR)
18. Debbie Ramsay, GoodCorporation
19. Adil Rehman, Next
20. Gwendolyn Remmert, Private Sector Cooperation Deutsches Global Compact Network (GIZ)
21. Juan Salazar, F&C Asset Management
22. Sachi Suzuki, Hermes Equity Ownership Services
23. Julie Vallat, Total
24. Felicitas Weber, UN Principles for Responsible Investment (UN PRI)
25. Claire White, The International Council on Mining and Metals (ICMM)
26. Elizabeth Wild, BP

### *RAFI Project Team*

1. Anthony Carey, Mazars
2. Richard Karmel, Mazars
3. Caroline Rees, Shift
4. Anna Triponel, Shift