

THE REPORTING AND ASSURANCE FRAMEWORKS INITIATIVE (RAFI)

‘TAKE-AWAYS’ FROM RAFI CONSULTATIONS IN JANUARY – JULY 2014

I. INTRODUCTION

The following document summarizes stakeholder inputs to the RAFI process from the latest series of consultations held between January and July 2014, and provides suggested next steps. The RAFI web portal provides further background information on RAFI.¹

This document draws upon discussions at a project workshop in New Delhi in March 2014, expert multi-stakeholder consultations in London and New York in April-May 2014, individual discussions with ASEAN expert stakeholders in June-July 2014, meetings of the Eminent Persons Group in March and June, and bilateral consultations and interviews with a variety of organisations and individuals throughout the first half of 2014. Collectively, these discussions involved over 120 individuals from business, civil society, governments as well as legal, assurance, academic and other expert backgrounds. Fuller meeting and consultation reports are available on the RAFI portal.

This summary captures both the key messages received from across stakeholder groups and regions, and the RAFI project team’s proposed approach for integrating these into its next steps for the development of the proposed reporting and assurance frameworks.

The project’s development in the months ahead will remain grounded in broad and deep consultations across different geographical areas and encompassing all stakeholder groups. All views and comments, whether on these take-aways or on the project more broadly, are welcomed and can be sent to the contact at the end of this summary.

II. SUMMARY OF CONSULTATION TAKE-AWAYS

The Reporting Framework

Draft outline construct

Consultations reflected **strong support for the draft outline construct for the reporting framework.**² The outline construct proposes some basic categories of information that for inclusion in the RAFI reporting framework, and indicates how they might be structured relative to each other. Both the fact that the construct is clearly grounded on

¹ RAFI portal, available at <http://business-humanrights.org/en/business-and-human-rights-reporting-and-assurance-frameworks-initiative-“rafi”-0>

² The draft outline construct is available here: <http://business-humanrights.org/sites/default/files/media/documents/rafi-outline-consultation-apr-2014.pdf>

the UN Guiding Principles, and that it provides for a ‘filter point’ to narrow the focus of reporting were seen as important criteria for success.

Salience v. Materiality

The deliberate **decision to use the concept of ‘salient human rights risks’ rather than ‘materiality’** as the ‘filter point’ that defines the focal issues for reporting also received broad support. There was general agreement with the approach of defining what needs to be reported not in reference to the interests of a particular audience (shareholders/other stakeholders) but in reference to the severity of impacts on human rights. Many saw additional merit in avoiding any need for the RAFI reporting framework to ‘choose’ among the various definitions of materiality in a context where these are now hotly debated.

At the same time, many stakeholders emphasized the **importance of getting the definition and criteria for this ‘filter point’ right**. The robustness (or otherwise) of a company’s process to identify the ‘salient human rights risks’ for reporting would determine the relevance (or otherwise) of all the subsequent information it would provide under the framework. The project team will therefore need to pay particular attention to the how this section is framed.

Smart questions – general

Stakeholders reacted very positively to the **general direction of the first draft of the ‘smart questions’** that would populate the reporting framework.³ These questions aim to elicit information about a company’s human rights performance that it is meaningful for stakeholders to read, viable for companies to provide, and which support good human rights due diligence. The first draft builds upon a range of interviews with individuals from companies, investors and civil society organizations.

At the same time, comments revealed the need for some of these smart questions to be more focused and simplified, to avoid both misunderstanding of their intent and the scope for responses to be limited to a single phrase or ‘buzzwords’. One suggestion was for a social survey expert to review a subsequent draft to consider whether the language properly focuses the user on the intended issues. The project team will incorporate this into the process once the draft is further developed.

Smart questions - governance

A good number of participants placed particular weight on **questions that address human rights in relation to the company’s governance** and in particular the Board’s understanding and ownership of the company’s human rights risks and how they are managed. Views varied on the merits of reporting that is conducted at the corporate level versus the level of particular business units or subsidiaries. However, there was

³ The first draft of the smart questions is available here: <http://business-humanrights.org/sites/default/files/media/documents/rafi-smart-questions-apr-2014.pdf>

general agreement that, in either instance, it was important to have insight into the extent of Board oversight and engagement.

Smart questions – overarching questions

Across stakeholder groups, there was a sense that the initial array of around 30 questions could be daunting for smaller companies and also for larger companies just starting down the path of implementing the UN Guiding Principles. Many saw a **need for a shorter and simpler set of questions to encourage companies to start reporting**. At the same time, there was concern that companies might simply cherry-pick which questions they answer and/or never move beyond the most basic level of reporting.

To address this, the project team will test the idea of having an overarching question for each section in the framework, to which any company should be able to provide some kind of substantive response, followed by one or more supporting questions. The greater the extent to which a company can respond to the supporting questions, the better the response to the overarching question would be. Further thought will be needed on how to frame the relationship between the overarching and supporting questions, in order to encourage companies to respond to more of the supporting questions over time. Stakeholder views will be sought on this approach.

Reporting framework – possible structure

Many stakeholders expressed **concern that the reporting framework should not imply that all answers to the questions would be of equal value**, regardless of the quality of their content. There was a desire to see the framework provide clarity regarding what is actually expected of companies. At the same time, it was recognized that making the reporting framework too prescriptive risked turning it into a human rights due diligence guide – a fundamentally different exercise and one unlikely to add value at the cross-sectoral level. Moreover, a highly prescriptive approach could deter companies from starting down the path of reporting what they have so far achieved and their plans for improvement.

To address this tension, the project team proposes to include under each question, as a basis for further consultation:

- a. an explanation of the question's intent;
- b. examples of the types of information that it would be relevant to include in response to the question: not as a prescriptive list of what must be included, but as an indicative list of where certain types of information would most logically belong;
- c. a cross reference to the relevant sections of the UN Guiding Principles, which provide the normative reference point for what is expected of companies.

Reporting framework – illustrative answers

Discussions on **the utility of including some illustrative answers to questions** revealed that certain initiatives taking this route have found some companies will literally cut and paste the examples into their reports. That said, many saw value in having examples as further guidance to those drafting reports. The project team will therefore try to identify examples for inclusion in the reporting framework that are sufficiently specific and tailored that it would be difficult or impossible to lift them and use them in another context. Examples could include ‘leading edge’ excerpts from actual company reports or hypothetical examples, but should in either case reflect quite specific information.

Dovetailing with existing initiatives

A continuing theme from prior consultations is **the importance of ensuring that the RAFI framework dovetails effectively with existing initiatives** in both the reporting and broader business and human rights fields. The project team continues to engage actively with ever more such initiatives to meet this need. It will be mapping the draft questions against the standards/indicators of a range of initiatives to look at both what learning RAFI can draw from them and how to ensure RAFI dovetails with them and adds value. The team is particularly pleased to be continuing its substantive collaboration with the Global Reporting Initiative under their Memorandum of Understanding of December 2013.

Participants in the consultations welcomed the idea of including within the reporting framework explicit cross-references to relevant standards/indicators developed through other, respected initiatives, to permit companies who use them to see how they correlate. This cross-referencing should ideally bring additional profile and prominence to those other standards/indicators, beyond their usual audiences.

Reporting of actual impacts

Discussions reaffirmed the need for the reporting framework to **direct companies towards basing the information they provide on actual cases and outcomes ‘on the ground’**. Reporting what remains at the level of policies and processes will be of limited value and will evolve little over time. It was also noted that the framework should urge companies to make available the policies referred to in their reports, such that readers can properly understand information about their implementation. The project team will endeavor to reflect both these points in the further drafting work.

Role of indicators

Views on **the potential role of indicators in human rights reporting** varied among stakeholders, yet many saw them as adding real value. Discussions reflected three levels at which the reporting framework might reference indicators:

- a) by including a few, carefully selected indicators within the framework itself (perhaps at the macro level, for example the numbers of employees vs contract workers, and the number of both employees and contractors covered by collective bargaining agreements);

- b) by cross-referencing from each section the relevant indicators developed by well-respected industry or issue-specific initiatives;
- c) by incentivizing companies to include their own indicators as part of the evidence they provide in response to questions (while perhaps also providing some kind of guidance or illustrations of what makes indicators more or less valuable in this field).

It is also possible that over time and with experience in using the RAFI reporting framework, additional, high value indicators will become apparent and can be included in later iterations of the framework.

Benefits of reporting under RAFI

Many stakeholders expressed an **interest in articulating the business case for companies to use the RAFI reporting framework in practice**. Some noted that in-house counsel often resist increased transparency out of fear that sharing information about on-going processes of implementation, impacts that have occurred, and targets that are yet to be achieved may be used against the company in litigation and campaigns.

Various approaches to making the business case were discussed, including:

- ⇒ the need to meet new and emerging regulatory requirements for non-financial reporting, or to get out ahead of the trend in this direction;
- ⇒ experience showing that the risk of sharing information is often far lower in practice than the risk of being non-transparent, which can fuel suspicion, distrust and rumor, along with assumptions that the company is doing nothing to address human rights risks;
- ⇒ the ability for companies to demonstrate that they are using what opportunities and leverage they reasonably can to improve human rights outcomes in relation to their operations;
- ⇒ giving companies the opportunity to demonstrate the extent to which it engages with stakeholders and the effectiveness of this engagement;
- ⇒ the potential for the discipline and process of reporting (and of internal audit/external assurance) to trigger the internal discussions that can in turn support and enable improved risk management processes; and
- ⇒ growing pressures on companies from business partners (customers, JV partners etc.) and investors to demonstrate that human rights risks are being managed.

The Assurance Framework

In line with earlier stakeholder feedback, **development of the assurance framework has been on a slower track**, with the initial focus on building shared understanding of the differences between social audit and sustainability assurance, and their relative strengths and weaknesses. Consultations in early 2014 continued to focus on identifying the key challenges that any framework for the assurance of human rights reporting will need to tackle, and possible approaches to doing so.

Internal audit

A number of stakeholders felt that, at least **initially, the assurance framework may be of particular use to companies' internal audit functions**. In increasing numbers of companies, internal audit is starting to turn its attention to the company's human rights commitment and how it is implemented, yet lacks experience or clarity on how to assess the policies and processes in place. Some stakeholders, including from companies, highlighted the benefits of involving internal audit functions, including their ability to influence core business practices and raise issues to the attention of the Board. Equally, some stakeholders felt that as uptake of the reporting framework, and comfort with the assurance framework, grew, the use of the latter for external assurance would naturally increase.

Competence of assurance providers

Discussion of the assurance of human rights reports highlighted a number of challenges and some potential approaches that might address them:

There was **concern that the providers of assurance should have the requisite competence to conduct the processes effectively**, in terms of assurance, human rights, industry and country expertise. An additional concern was the legitimacy of an assurance provider that is paid by the company to assure the company's reporting on human rights. Potential ways to tackle this in the assurance framework were seen to include:

- ⇒ Providing clarity on the ethical standards for performing human rights assurance, such as independence, integrity, and competence
- ⇒ Providing clarity on the constitution of teams necessary to provide the right expertise to perform a particular assurance process;

It was noted that professional audit standards, to which providers are held accountable by oversight bodies, can offer valuable reference points in both these regards.

Governance of assurance process

In addition, some participants raised the **possibility of some kind of oversight for the assurance framework**, in order to provide accountability for the genuine independence of an assurance process, notwithstanding the source of funding. Others raised the idea of an independent source of funding, albeit the feasibility of this model appeared challenging.

Pre-conditions for assurance

Discussions highlighted the **perceived inadequacy of one-sentence assurance opinions** announcing that nothing was found to suggest that the reporting was not fair and balanced. Further concerns related to the numerous caveats in many assurance opinions – which often addressed only parts of a report, used only certain criteria (eg materiality/ completeness/responsiveness) but not all, and looked only at the fact of processes reported, not their suitability or effectiveness. There was a sense from many

stakeholders that the RAFI reporting framework must heavily limit any such caveats in order to bolster the usefulness of human rights assurance. Ideas discussed included:

- ⇒ Requiring that a company report on a minimum set of questions before it can seek assurance under the RAFI framework;
- ⇒ Requiring that all information reported be assured and that all criteria in the assurance framework be applied, before the assurance can claim to be in line with RAFI;
- ⇒ Stipulating that an assurance opinion should be more expansive, and describe key elements of the assurance provider's findings (a trend already happening in financial assurance in some jurisdictions);
- ⇒ Considering whether some criteria might be developed that would define what constitutes a robust assurance opinion.

The project team will explore all these ideas in relation to the assurance framework and develop a separate paper proposing more fully some ways forward, for further consultation.

III. NEXT STEPS

The project team will take forward the next iteration of the reporting framework, based on these take-aways, in August to October 2014. It will continue its proactive consultations with stakeholders during that period, as the drafting process progresses.

The project team will also issue a short summary on the project's approach to 'salience' and 'materiality', and a consultation paper on the assurance framework by the end of September.

The next formal expert multi-stakeholder consultations will take place in London, New York and Jakarta in November 2014.

The first company pilot of the reporting framework – designed to test it as it evolves – will be announced in September.

All project documents will be posted on the project portal.⁴ All views and comments are welcomed and can be sent to the RAFI project team via Anna Triponel at Shift (anna.triponel[at]shiftproject.org).

⁴ RAFI portal, available at <http://business-humanrights.org/en/business-and-human-rights-reporting-and-assurance-frameworks-initiative-“rafi”-0>.