

Consultations of the Reporting and Assurance Frameworks Initiative (RAFI) London, New York and Jakarta

September – October 2015

Summary of Key Take-Aways

During the course of September and October 2015, the Reporting and Assurance Frameworks Initiative (RAFI) project team of Shift and Mazars convened three multi-stakeholder expert consultations in London, New York and Jakarta to discuss the next stages of RAFI. The focus of these consultations was to discuss (i) lessons learned from companies using the UN Guiding Principles Reporting Framework (UNGP Reporting Framework, or UNGPRF), and (ii) proposed guidance for human rights assurance practitioners. The sessions took place under the Chatham House rule.

Discussions across the three consultations had strong points of convergence and one or two key areas of divergence. Rather than capturing feedback separately, this document summarizes the key discussion points made at all three consultations without attribution to speakers, to show these areas of convergence and divergence. It concludes with a comment on how these inputs are shaping the project team's plans moving ahead, including the decision to continue consultations on the guidance for assurance practitioners into early 2016, and postpone the finalization of the guidance until mid-2016.

Background

The UN Guiding Principles Reporting Framework officially launched in February 2015 and provides the first comprehensive guidance for companies to report on how they respect human rights in practice. This would not have been possible without the valuable input and active engagement of company, investor, civil society, government, assurance and other stakeholders who participated in expert consultations convened by the RAFI project team over the last two years. The framework and complementary implementation guidance can be downloaded at www.ungpreporting.org.

Since its launch, investors representing over \$4.8 trillion assets under management worldwide have signed a formal letter of support for the framework. Unilever has released a stand-alone human rights report, and Ericsson has used the framework to inform the human rights information in its sustainability report. Some other early adopters have committed publicly to using the framework, including ABN AMRO, H&M, Nestlé and Newmont. A substantial number of companies have also indicated that they are using the framework for external reporting as well as internally as a tool for improving human rights due diligence. The Swedish and Norwegian governments reference the Reporting Framework within their National Action Plans and the UK government references it as a helpful tool in the guidance to the Modern Slavery Act. The UN Working Group on Business and Human rights also recommended that all States should see the Reporting Framework as “an opportunity for

convergence around a tool that is based directly on the Guiding Principles.” More information about use of the Reporting Framework can be found at <http://www.ungpreporting.org/about-us/support-and-users>.

Session 1: Company use of UNGP Reporting Framework

The consultations in London and New York in particular involved a number of companies that have been using the UNGP Reporting Framework, both to improve their internal human rights-related processes and to structure their public reporting. Key discussion points made by companies on using the UNGPRF were as follows:

- The UNGP Reporting Framework is helping companies report publicly on human rights by providing a framework that has credibility. Companies noted that this credibility stems from the fact that the UNGP Reporting Framework is firmly based on the UN Guiding Principles and was developed through extensive consultations, similar to the process of developing the UN Guiding Principles. In addition, the UNGPRF provides the questions that stakeholders expect companies to have answers to;
- The internal conversations that are leading to the human rights reporting are just as valuable as the final report. The UNGPRF is seen as a management tool that is helping companies strengthen their human rights due diligence. It is not always clear who “owns” the human rights agenda, and using the UNGPRF can help create ownership of human rights internally. One early adopter company is calling it “the enabler”;
- The concept of salience is helpful as it assists companies to understand where they have information relating to the severity and likelihood of impacts to people. At the same time, bringing risk to people into a typical enterprise risk management system can be challenging;
- The UNGPRF is assisting companies in their conversations with stakeholders. It helps the conversations focus on the genuine issues, such as freedom of association and wages. A strengthened relationship with civil society and trade unions can help companies move toward better practices and outcomes;
- Implementation of the UNGPRF is a journey. Companies don’t have all the processes needed to compile the relevant information. The key is for subsequent reports to build on prior reports and provide further information. For instance, it can be acceptable if a first report starts with more general information on policies and processes, as long as subsequent reporting then seeks to include further meaningful information about how these play out in practice.

Participants noted that one of the biggest issues facing companies today was the building of trust. Using the UNGP Reporting Framework can be a way to build trust between companies, regulators, investors, consumers, workers and other stakeholders potentially affected by the companies’ business. It’s a way of showing how the culture set by the board of directors is embedded throughout the organization. It reflects the general movement towards greater transparency.

Participants also noted that the UNGPRF is helpful as it goes beyond a compliance exercise. In particular, the role of the legal function is evolving beyond legal compliance and some legal departments have chosen to push companies to disclose further to help educate stakeholders about the challenges faced when operating in certain countries.

Finally, participants debated whether the UNGPRF would be helpful for small and medium-sized enterprises (SMEs). On the one hand, it might be challenging for SMEs to identify their salient human rights issues if they don't have strong risk assessment processes in place; on the other hand, SMEs are frequently values-based with typically less silos that need bridging than in larger companies.

Note: The RAFI project team will issue a fuller note with lessons learned from early adopter companies in early 2016.

Session 2: Uptake of the UNGP Reporting Framework

Participants highlighted the importance of building markets for good human rights reporting. In other words, there is a need to ensure that good disclosure is recognized and rewarded. Several drivers for good human rights reporting were discussed:

- **Governments:** Governments play a critical role by setting a level playing field in this area. Companies are often not pushing for de-regulation in this regard, since a level playing field is helpful for business. It can be challenging to be a first mover, and easier if all companies are moving forward together. The Modern Slavery Act in the UK was raised as an example of regulation that is motivating senior-level attention within companies to human rights. It was noted that governments can also play an important role in pushing other governments towards a common international baseline;
- **Investors:** Investors with long or medium term investment horizons increasingly care about these issues. It was stressed that investors are increasingly looking for information on the challenges faced by companies and the Board oversight on these issues;
- **Civil society organizations:** Civil society organizations (CSOs) highlighted their strong interest in how companies understand their human rights challenges and the types of conversations that they are having internally and externally about these issues. CSOs can play a role in helping businesses channel information into forward-looking thinking. There was a shared sense that it would be highly valuable to have a clear message from civil society that good disclosure – even where it discloses challenges that are still being, or yet to be, fully addressed – would be welcomed and positively recognized.
- **Stock exchanges:** Some participants raised the particularly important role that stock exchanges can play in driving public companies to submit more meaningful information. The Malaysian Stock Exchange's recent guidance was raised as an example of this. At the same time, it was stressed that the push for information needs to be done at the right time. For instance, if stock exchanges push for integrated reports too quickly, ignoring the time it takes to develop this kind of reporting, it can lead to bad reporting as a result;

- **Business associations:** Business associations were seen to play a particularly important role in helping companies move forward together on human rights. In some countries in Africa and Asia, they were seen to often play a more important role than governments by galvanizing change and action amongst peers;
- **Consumers:** Participants noted that consumers are not yet a driver for action in this field. It was seen as critical to get to a place where consumers are asking for this kind of information and are making their purchasing decisions accordingly.

Sessions 3: General Discussion on the Draft Assurance Practitioner Guide

The RAFI project team provided an overview of the draft assurance practitioner guide.¹ Participants discussed the value of both internal and external assurance for companies. Comments highlighted that assurance can provide confidence in the information a company produces, and can also provide confidence to companies on the appropriateness and effectiveness of the policies and processes they have in place. Assurance needs to be about asking the difficult questions to ensure assertions about company policies and processes are reasonable. In the human rights space, assurance has a role to play in helping companies understand where they are on the journey of implementation of the UN Guiding Principles, but it is not about providing a pass/fail approach. It was therefore stressed that the guidance should become a tool that dovetails with the Reporting Framework and which can achieve two objectives:

- i) Helping companies evolve their internal management systems by clarifying the types of evidence they could look for to better understand whether their policies and processes are appropriate and effective; and
- ii) Helping professional assurance practitioners understand the challenges of undertaking such a role, the competencies they may require and the types of conclusions that could be achieved.

The challenges for the provision of external assurance was most pronounced in the US context, while the European context appeared to offer more opportunities for innovation. Assurance providers from organizations other than professional audit firms also saw more scope for this kind of human rights assurance.

Significantly, there was strong convergence across jurisdictions and practitioner groups on the value of the indicators in the draft assurance guidance for internal audit and for the conduct of assessments of human rights performance resulting in reports to management (but without a formal public statement by the provider). It was recognized that the kind of detail and clarity in the draft guidance will bring considerable value. Moreover, a number of participants from companies who lead on human rights issues noted the value of these indicators for the purpose of designing and reviewing human rights policies and processes.

Sessions 4: Detailed Discussion on the Draft Assurance Practitioner Guide

¹ See <http://business-humanrights.org/en/business-and-human-rights-reporting-and-assurance-frameworks-initiative-rafi> for further information on human rights assurance.

In addition to specific wording suggestions to the draft guidance, participants highlighted the following:

- Participants noted that the guidance was detailed, but that this was necessary for the intended purpose. The order of the guidance was seen as logical and likely to resonate with users. It was suggested that there might be different formats in which the guidance could be presented for different practitioners (e.g., Excel spreadsheet);
- It was noted that a balance needs to be struck between what should be contained in the guidance to help ensure a certain consistency in approach, and what should be left to the professional judgment of the practitioner. It was suggested that the guidance could provide some further definition on what is meant by ‘appropriateness’ and ‘effectiveness’ of processes so that there is consistency amongst assurance providers. At the same time, specific assessments (e.g., determining whether the level of training a company provides is commensurate to the level of risk) should be left to professional judgment;
- The deference at times to the professional judgment of the practitioner was acknowledged as underscoring the importance of their competence. In particular, when reviewing the identification of salient human rights issues (in B2), participants emphasized the need for the practitioner to have the right knowledge in terms of the sector and the geography in addition to human rights. It was suggested that the competence section of the guidance could be re-framed to highlight the kinds of things that companies should be looking for in a professional before undertaking this work;
- Some of the questions in the guidance were seen as too binary and it was suggested that these could be revised to reflect further that companies are at different levels of maturity and sophistication. Rather than language that calls for yes or no answers (“is there information on X”), it would be preferable to have language that shows these different levels (“to what extent is there information on X”). This was seen to align well with the fact that there are different stages of maturity on implementation of the UN Guiding Principles;
- It was felt that it would be helpful if the guidance linked more clearly with the global standards of internal auditors. The Global Institute of Internal Auditors (represented at one of the consultations) should be consulted in this regard. It was suggested that the link to assurance aspects of existing reporting initiatives could also be strengthened;
- Participants suggested that the guidance should clarify that not all of the bullet points under each sub-section of Section III are compulsory. The assurance practitioner will need to ensure that there is *sufficient* information and that it is relevant;
- Regarding information about how the company engages stakeholders (section C2 of the UNGP Reporting Framework), participants highlighted that internal auditors are not necessarily the most experienced to make these decisions and judgment calls. They would need training to take decisions on this.
- There was strong endorsement for the proposition that stakeholder engagement is critical to the conduct of assurance itself, and for the inclusion of a section dedicated to this in the guidance. Participants underscored that this kind of engagement will

require a combination of training for providers and collaboration with experts in this field;

- The proposed graphic depiction of the conclusions of an assurance process was widely welcomed and deemed helpful. However, various participants noted that it should be made more understandable.
- Some participants asked how the assurance guidance and outputs would link to the Corporate Human Rights Benchmark (CHRB). The project team noted the hope that the two initiatives could be complementary, with the Benchmark building on and benefiting from the Reporting Framework and the Benchmark in turn highlighting the benefits for companies of reporting in line with the Framework. They noted that purpose of the human rights assurance and what the CHRB is seeking to achieve is distinct, albeit complementary.
 - The CHRB will use public information on companies to power its Benchmark, which will also be public.
 - The RAFI assurance process relies on access to internal company information and interviews with company staff and external stakeholders. In the initial years it will likely be conducted by internal auditors more than external assurance providers due to the challenges of making public assertions about the balanced and fair nature of often qualitative information. However, the aim is to see external assurance evolve to enable this kind of information to be addressed also in public statements by assurance professionals.

Conclusion and next steps

The inputs from these consultations led the project team to the following conclusions on next steps:

1. The project team will continue to disseminate and promote the UNGP Reporting Framework with the range of key actors identified in the discussions, and to provide resources that can support its uptake.
2. The guidance for assurance practitioners has a wider set of potential audiences/users than originally anticipated. These include:
 - a. Company staff developing human rights policies and processes;
 - b. Internal auditors within companies, and internal audit professionals that support companies in these processes;
 - c. External practitioners who provide confidential assessments to companies on their human rights performance; and
 - d. External assurance providers who provide assurance on companies' reporting;
3. In light of this broader set of audiences, the guidance will be reframed to give particular emphasis to internal audit as well as reflecting the external assurance aspects, recognizing that other users may be earlier adopters than professional audit firms.

The graphic representation of assurance/assessment conclusions offers real value but needs refinement to ensure it provides meaningful insights and is intuitive to readers.

The project team therefore believe there to be value in further consultations with distinct audiences as the guidance is revised. These will be undertaken in late 2015 and early 2016 to be followed by a revised draft and more public feedback later in 2016. We envisage that the launch of the guidance will be in the middle of 2016. The project team welcomes comments on this summary report and will publish a revised version of the guidance for assurance practitioners for public comment in spring 2016.