

**Business and Human Rights Benchmarking Exercise:
Response by Facing Finance 1 September 2015.**

Overarching/ Initial Comments:

Facing Finance welcomes the addition of a corporate benchmarking tool and sees it as a very helpful step in allowing access to non –financial data in relation to human rights. We particularly acknowledge its importance in providing clear information to investors and other FIs for inclusion in their ESG assessments, allowing them to make more sustainable financial decisions.

We acknowledge that in methodology 1.0, “The Benchmark will initially measure the top 100 globally listed companies that are in the Extractive, Apparel and Food/Beverage and Agriculture sectors. The Benchmark will focus solely on company’s operations and not on a company’s products or services. The scope of the companies considered to fall inside the sectors will be set out in more detail in the final methodology.”

While we understand that it is of course essential to limit the set of replies initially, the eventual aim to include all 500 companies will of course mean that the benchmarking exercise will be extended to include Financial Institutions, which fall within the scope of the top 500. It is noted that the methodology will evolve as new sectors are introduced. What is currently unclear is how the evolution will occur. The disclosure of FIs will be a more complex process in relation to reporting on the Human rights impact of their business relationships. Is it proposed that the text in black will remain and there will be additional sector specific guidance for FIs (as is shown for AP, AG etc.)? In this case it becomes important to read the black text in relation to FIs and ensure that **at this stage** it would be able to be applied. If this is done at this stage it ensures that no major substantial changes need to occur to the methodology at a later stage.

Is it proposed that the black text will remain and only the sector specific criteria will evolve? Or is it feasible that any and all indicators could change as required? Please note: *In our response we assume that the part of the indicator in black text will remain relatively consistent over time with the addition of sector specific information where required.*

Also how substantially is the methodology likely to change between 1.0 and 2.0 and other iterations in between? Obviously it is not desirable for the methodology to change significantly year on year as this would then affect continuity issues in relation to the benchmark and it would be difficult to tell whether companies were improving in their ranking. Please note: *In our response we assume that there will be minimal changes to the methodology over time, in particular to the indicators marked (E).*

Naturally it is expected that Financial Institutions that fall within the top 500 companies (e.g. HSBC, BNP Paribas) would also have to fulfil the criteria and complete the benchmarking exercise by June 2017 as mentioned in the methodology paper. This means that they will have to prove that they have taken ESG into account in relation to their business operations. They will need to be transparent about their processes and policies too.

Most important for FIs is to create culture of change, with Human Rights engrained into the system. This means that processes are critical. At this stage we will not provide a huge amount of detail on the specifics of FIs disclosure and will simply evaluate the Essential indicators in relation to their future applicability to FIs.

Specific Questions as requested:

(I) BROAD CRITICAL ISSUES

1. Have we got the principles behind the weighting of the measurement themes correct to ensure a balance between policy and performance? If no, what needs changing?

Yes we believe that the mix between policy and practice is well balanced. In general, regarding the wording of the indicators, it would be helpful if the indicator was worded clearly enough that one didn't have to refer to the theme constantly. Ideally the indicator should in itself be clear that it relates to either process or reporting or management in and of itself.

2. Have we covered the Key Sector Risks that we should be considering for the Extractive, Agriculture and Apparel Sectors?

Key Sector risks - *The risks regularly regarded as potentially severe and/or likely within the sector and that companies are expected to demonstrate, through a process of human rights due diligence, how they are preventing them or why they are not relevant. Therefore, while these risks are anticipated to be relevant given the company's sector, they may not necessarily be the individual company's most salient human rights issues (see salient human rights issues below).*

Salient human rights issues - *Those human rights that are at risk of the most severe negative impacts through a company's activities or business relationships. They therefore vary from company to company.*

For Score 1: The indicator should read: "Process(es) for assessing the salience of risks is described and made public". Reasoning: For FIs, and possibly for other sectors, the basic process that is involved in undertaking these assessments of salient risks is critical to civil society organisations being able to tell whether they are actually being applied.] Also it is a bit unclear in the indicator – described where? In their benchmarking submission? In an annual report? In a private internal report?

For Score 2: again both process and results should be made public.

In terms of key sector risks for AG, AP and EX they seem well defined. Perhaps include labour rights under EX as many strikes and protests in the mining sector stem from lack of unions or the perception of unfair wages.

3. Is the Benchmark fit for purpose for all stakeholders?

This is dependent upon the form that the benchmark takes. Will all the collected data be publically available or will only the ranking list be visible to the public? How much of the raw data will be available to investors, NGOs and other civil society organisations for comparison. The benchmark should push for as much transparency from companies as possible; this will ensure that both investors and civil society are able to make informed decisions. Naturally when collecting data for 500 companies it becomes unwieldy to publish all the results. With this data it may be useful to develop something akin to the "Access to Medicines Index" which robustly evaluates each company against set criteria and themes.

(II) FEEDBACK ON MEASUREMENT THEMES AND INDICATORS

A. MEASUREMENT THEME: Leadership - 10%

A1.1 This indicator should also include a reference to general support for human rights legislation and generally advocating for human rights legislation. This does not have to be

related to a case in their operations. Businesses should generally be supporting strong human rights legislation in the countries where they operate as well as where they are headquartered. Transparency of lobby organisations could form part of this.

A2.1 Specifically highlight the importance of taking this stance with multistakeholder initiatives. E.g. RSPO could definitely be stronger and business advocates for making it stronger would be beneficial.

B. MEASUREMENT THEME: Governance - 10%

Please include any suggested comments on the measurement theme, on the list of indicators, on the wording of indicators or scoring.

B1.1 Text of policy seems to be missing word: “relates to human rights more generally, rather than to only ONE or more selected...”

Note : policy for human rights – see if anywhere else it applies to ‘throughout organisation’ . a policy for company acknowledging human rights does this mean anything if it is not throughout all departments.

B1.2 wording confusing, easier to understand if rephrased as follows: Company publically commits to respect the ILO’s Declaration on Fundamental PRINCIPLES and Rights at work. This should also include a statement regarding in its own operations and in the operations of its suppliers. When FIs are included this should obviously refer to all financial relationships.

B1.3 contextual error, should it not say ‘respecting the human rights of individuals belonging to specific groups’? I understand that this is in reference to the Guiding Principles and Bill of human rights but the text becomes unclear when there is repetition of “rights”.

B1.4 contextual error, should it not say “ Commitment to respecting additional human rights of, or relevant to, local communities.”?

Many conflicts revolve around environmental concerns and result in community conflicts, (particularly around water) it may be necessary for businesses to score both 1 and 2. 1 and 2 are indistinguishable from one another. Need a new second metric – perhaps around examples. Again for AG I see no difference between commitment in score 1 and score 2.

B1.5 Grateful to see a definition of ‘Business relationships’ in key terminology. This is very useful. Thanks. In relation to FIs it may be helpful to refer to business relationships also in terms of financing, i.e. any financial relationships between business and supply chain.

B.2 – In general does the business need a process in place, which ensures that salient human rights issues are processed up to board level. Not sure whether this would be covered within this indicator but an indication of a company wide process for pushing human rights issues up the hierarchy would be useful.

C. MEASUREMENT THEME: Management Systems - 30%

Please include any suggested comments on the measurement theme, on the list of indicators, on the wording of indicators or scoring.

In terms of management it is important that human rights is included in KPIs at various levels in the organisation.

C1.6 this should not only be “communicates” but also “applies”. “The company communicates and applies its human rights policy”

C1.8 An additional inclusion/ higher score could relate to a participative review of its human rights policy. Engaging staff, stakeholders and business relationship in the review of it Human Rights Policy.

C1.10 While desirable for other businesses this should be essential for FIs. This is probably the most critical indicator for FIs. I am not sure how you would address this in the future but it may be worth bearing in mind that this could be made essential (E) at this stage.

C.1.12 add in “prevent accidents”

C2:

D. MEASUREMENT THEME: Performance - 40%

Section D is obviously a critical indicator section to assess performance, however, there is no indication of which of these are essential and which are desirable. Are they all essential? If the sector AG/AP etc appears in the brackets does that mean that this indicator is essential to that sector?

This adverse events indicator should be linked not only to alleged incidents but also to legal fines and cases. The identification of severe breaches can obviously lead to legal consequences. Also is this indicator timebound. Do they have to be severe breaches in the previous year? Also the assessment of this indicator requires specific scoring procedures in relation to company reaction, commitment to process evaluation of how the event could have occurred.

E. MEASUREMENT THEME: Reporting and Transparency - 10%

For section E it is unclear what is essential and desirable.

E1.1. This is very unclear what does “the company is made publically available” mean, is this perhaps missing text i.e. “company ‘s policy is “

E1.2. ideally the company has also identified key departments within the organisation that require specific training. These priority sectors should be reported on first. There will always be sectors in the organisation that are more exposed to Human Rights issues, such as those dealing with procurement. These departments should be identified and should be the priority for training. For FIs an approach which prioritises particular departments is very helpful as those working in due diligence, compliance and project finance will need to be more aware of human rights issues than those working in, say, the accounting department.

E1.3 Companies will also need to be clear about how often its operations are subject to Human Rights management processes.

The company should if possible disclose the methodology behind its Human Rights assessments. Need to be clear how this fits in with the new reporting UNGP framework . How can companies streamline their reporting structure through this.

E1.5 I think that the indicator requires further detail in relation to this. I think that it is unclear in relation to what form the “engagement” will take. In relation to FIs I would say

that process is critical, what is their process for engaging with stakeholders and how have they performed in relation to the agreed process. For example in their ESG policies they commit to assess companies on an annual basis and engage with companies that are not performing to standard or to agreed criteria. The important aspect would be to see that they are meeting with these stakeholders upon implementing their process and finding an issue. Ideally they would make public agreements reached from these engagement meetings but that is probably idealistic! Also is this timebound or target driven in any way?

E1.6 not consistent with previous indicators. (the text is an explanation of the indicator and not the indicator itself). The initial text should say something along the lines of “Total number or percentage of investment agreements and contracts that include...”

This indicator will obviously have to be extended significantly for FIs and will be an essential indicator.

E1.8 This comes back to KPIs need to show they have included Human Rights into KPIs and then need to disclose progress on them. This will also obviously link to reporting structures. Is this indicator intended to relate to cases that they themselves have identified or external organisations/ngos have identified? This should be clarified in the text as to it relating to any sources of information. Score 2 if their process manage to spot it!