Re : Esma's Consultation paper regarding its Guidelines on enforcement of financial information

Dear Mr Maijoor,

The ANC welcomes the above mentioned consultation, to which we are happy to bring a contribution. The ANC agrees that the objectives of the guidelines should be to ensure a common European approach, proper and rigorous enforcement across the region and to avoid regulatory arbitrage.

1. In this respect, we are unconvinced that those objectives and more specifically that of a common European approach will be achieved when:

   - enforcers may state that they will not comply with the guidelines; this raises the question of the control of the compliance with the guidelines;

   - and if, as regards financial information, there are different ways of implementing the guidelines - like for example: (i) enforcement processes as fundamentally different as ex-ante and ex-post, which we understand from the consultation document do co-exist in Europe, leading to significant divergences among European jurisdictions; or (ii) other substantial differences in institutional, procedural and technical settings and arrangements.

2. Of course, market regulators elaborate their own enforcement processes in all independence.

However, such processes bear consequences on other actors in the financial reporting arena, such as national accounting standard setters. Indeed, when discussing at European and international levels the content of proposed accounting standards, their perspective will be fundamentally different depending on the scope, nature and intensity of enforcement practices in their jurisdiction.

This not only affects the stance of national accounting standard setters, but also the positions that all stakeholders (auditors, companies, investors) take to promote and protect their interest.

The ANC believes that the above message is important for your consideration in the context of your consultation. The ANC remains at your disposal for any further discussion on the above, with a view to best encourage harmonisation in Europe.

Yours sincerely,  

Jérôme HAAS