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JHE

## **ESBG/ WSBI Response regarding ESMA's Consultation on Guidelines on the Enforcement of Financial Information**

Dear Sir/Madam

Thank you for the opportunity to comment on your current consultation. We welcome the guidelines but would like to raise a specific concern for our members regarding the use of materiality.

Due to differences in national legislation we are concerned that the concept of materiality may cause some complications.

We are especially concerned with two proposed guidelines which may cause complications in specific Member States due to national legislation:

*"Guideline 9: An enforcer should be able to use the actions indicated below, which should be enforceable at the enforcer's initiative. Whenever a material misstatement is detected, the enforcer should in a timely manner take one of the following actions*

- a) require a restatement,*
- b) require a corrective note, or*
- c) require correction in future financial statements with adjustments of comparatives, where relevant."*

The issue of "material misstatements" will be difficult to interpret for those institutions operating in jurisdictions where materiality is not defined by law.

*"Guideline 10: When determining materiality for enforcement, this should be assessed according to the relevant reporting framework used for the preparation of the financial information as of its reporting date."*

The requirement to "determine materiality" is not possible when materiality is not defined by national law.

Please do not hesitate to contact us should you require any further information regarding our responses above.

