

26 January, 2004

Mr Fabrice Demarigny  
Secretary General  
CESR  
11-13 avenue de Friedland  
F-75008 PARIS

E-mail: [secretariat@europefesco.org](mailto:secretariat@europefesco.org)

Dear Mr Demarigny,

**Re: CESR Draft Standard No 2 on Financial Information Coordination of Enforcement Activities**

On behalf of the European Financial Reporting Advisory Group (EFRAG) I am writing to comment on the proposed *Draft Standard on Coordination of Enforcement Activities*. EFRAG welcomes the paper and believes that high quality uniform financial reporting is key to the creation of an efficient European capital market. To achieve uniform financial reporting, coordination of enforcement practices throughout Europe is fundamental. We agree with the proposals of CESR to harmonise the work of all national enforcers, including non-CESR members. We see this draft as a logical follow-up to CESR Standard No 1, which identified the need for setting up an enforcement mechanism, on which we commented in our response letter dated 6 February 2003.

EFRAG recognises the need for strong coordination as an essential element of effective enforcement. We agree that the aim should be that similar decisions be taken in similar circumstances.

Principle 1 distinguishes between ex-ante and ex-post enforcement decisions. We understand ex-ante decisions as “pre-clearances” and wish to repeat our concern that a practice of pre-clearance operating in different countries poses a threat to uniform interpretation and a risk of regulatory arbitrage as companies listed in different countries choose where to seek pre-clearance. To avoid unnecessary and inappropriate applications for pre-clearance and, in particular, to preserve among both preparers and auditors a sense of

personal, professional responsibility, we believe that companies should always be encouraged to make their own assessment of the proper application of International Financial Reporting Standards together with their auditors. In addition, CESR should clarify that although enforcement decisions form a precedent, that precedent will be overruled by any subsequent standard or IFRIC interpretation or by any further guidance resulting from coordination measures.

We support Principles 2 and 3 providing access to a database of enforcement decisions because we believe harmonisation can only be the result of an open and transparent process. An act of enforcement will, at least to some extent, be viewed as an interpretation of the standards, which is important for all stakeholders. Therefore, as part of transparency, EFRAG believes that at least those details of enforcement decisions that relate to interpretation should be made available not only to EU National Enforcers but also to other parties such as preparers, auditors, users, national standard setters or non-EU regulators, whilst respecting the confidentiality of company specific information such as the names of companies. It is important that this information is not only made available in the original language, but also be translated into an international language such as English.

As a consequence of CESR Standard No 1 enforcement should be carried out at national level. EFRAG believes that there is need for coordination and harmonisation at the European level. Therefore we support the CESR proposal to set up a committee - European Enforcers Coordination Sessions (EECS) - in order to discuss enforcement cases and decisions taken at national level as described in Principle 4. Since EFRAG is mandated to identify issues for which the IASB/IFRIC general interpretation guidance is not sufficient to ensure consistent application of IFRS throughout Europe, we believe that EFRAG needs to have a direct relationship with CESR and EECS within the enforcement process, in particular through being kept informed of frequent references to the same issue and decisions made at the national level. Such an involvement of EFRAG, possibly by granting an observer status at EECS, can help prevent a drift towards multiple interpretations and applications of IFRS throughout the European Union.

We hope that the above comments are helpful in taking forward CESR's important initiative to strengthen the European financial reporting infrastructure. Paul Rutteman or myself would be happy to discuss further with you any points raised in this letter.

Yours sincerely

Johan van Helleman  
**EFRAG, Chairman**