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The Deputy Director General

Thursday, January 8th 2004

FBF response to Consultation paper : "Draft Standard n°2 on financial Information – Co-ordination of enforcement activities"

Dear Mr Demarigny,

The French Banking Federation is pleased to have the opportunity to comment on to Consultation paper : "Draft Standard n°2 on financial Information – Co-ordination of enforcement activities".

We believe that CESR proposals on the co-ordination of EU Enforcers will improve transparency and consistency in the enforcement of standards on financial information amongst European listed companies.

We are convinced that the introduction of discussion sessions where both CESR members and Enforcers that are not CESR members should participate, as well as the use of a common database to build an history of endorsement decisions are appropriate ways of giving concrete expression to this co-ordination.

Nevertheless, we consider it of great importance that the respective functions of Endorsers and Standard setters in the matter of financial disclosure remain distinct : the case of pre-clearance should stay an exception, in order to avoid confusing the users of financial information.

You will find our detailed responses to the questions raised by the consultation paper in the attached appendix.

Yours sincerely,

Pierre de Lauzun

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Principle 1 : Ex ante and ex post enforcement decisions taken by competent independent administrative authorities or by bodies delegated by these authorities ("EU National Enforcers") should take into account existing precedents consistent with the timing and feasibility constraints which characterise the decision. Where practicable, discussions with other EU National Enforcers should take place before significant decisions are taken.

We agree with this principle.

We are particularly supportive of the proposal to introduce discussions amongst EU National Enforcers before significant decisions are taken in the field of enforcement. We think that flexibility should be a key characteristic of the process.

Nevertheless, as regards pre-clearances, we would like to emphasise the importance of what is mentioned in Standard 1 "it is important that pre-clearance should not result in enforcers becoming standard setters ». The distinction between the two functions must be clear.

Principle 2 : Within a reasonable time after decisions are taken by an EU National Enforcer, details of these decisions should be made available to the other EU National Enforcers in accordance with the policies developed by CESR.

We agree. We support the use of a database, which can ensure a greater consistency and harmonisation in the enforcement of standards, provided the rules and input policies are clear and developed by the CESR in co-ordination with and with the approval of enforcers that are not CESR members.

Nevertheless, we think that the constitution of this database should not lead to a harmonisation systematically based on the most burdensome and restrictive enforcement policies. As markets and national regulations are not always comparable on every aspect, it would sometimes be inappropriate to have the same enforcement of the standards. It might cause distortions of competition.

Principle 3 : The EU National Enforcers should follow a confidentiality regime consistent with that applicable to CESR members.

We agree, but would need clarification on the range of information that could be disclosed to other parties.

Principle 4 : In order to achieve a high level of harmonisation, the chairman of the SCE shall call European Enforcers Co-ordination Sessions (EECS) of the SCE to which all EU National Enforcers of standards on financial information should participate. Such sessions will be aimed at discussing decisions taken at national level, as well as experiences in the application of standards on enforcement.

We agree with the idea of EECS. It is of great importance for competitiveness among the EU issuers to ensure that CESR members as well as EU National Enforcers that are not CESR members should participate to such meetings, so that national experiences are put together and that no individual decision relating to the application of standards is taken at national level without consulting other Enforcers.