

Paris, 13 January 2003

Dear Mr Secretary-General,

Please find enclosed the comments made by the AFEP-AGREF in response to the CESR consultation on enforcement of accounting standards by the regulators, which seeks to define common principles at the European level.

The Association wishes to highlight the items in relation to the definition of the powers delegated to the enforcers (part B), companies and documents (part C), the methods of enforcement (part E) and the nature of the action to be taken (part F).

- With regard to the enforcers:
 - *Avoid these authorities carrying out the same type of work as that of auditors:*

AFEP-AGREF wishes to reiterate that enforcement by the regulator should be limited to examining the relevance and coherence of the information provided on the company's position, without involving authentication of the accounting and financial data provided.

- *Remove the delegation option which is given to them:*

To avoid any uncertainty for issuers, AFEP-AGREF requests that the option to delegate should not be retained, since the requirements may vary from one authority to another and the latter are not able to anticipate them.

Mr Fabrice DEMARIGNY
Secretary-General of CESR
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- On companies and documents:
 - *Stipulate that the issuer is not obliged to publish individual accounts according to IAS standards, in conformity with the European regulation dated June 2002.*
 - *Stipulate that the issuer is not obliged to publish financial statements and quarterly reports:*

AFEP-AGREF considers that publication of such documents should be at the discretion of each company.

- On the methods of enforcement:

Consider the ex-post enforcement as a complete system and not as a supplementary measure:

AFEP-AGREF reiterates its support for the ex-post enforcement of the registration document, an option which should be offered to issuers who have already produced several registration documents.

- On the actions:

- *Corrections should only be published in the case of material misstatements:*

AFEP-AGREF proposes that public corrections should only be used in the case of material misstatements and that these principles and stipulations should be set out in the procedures put in place by CESR.

- *Set up an emergency consultation system and procedure:*

AFEP-AGREF considers that it would be useful to set up a system and procedure within each competent administrative authority which makes it possible to issue a position statement approved by the regulator within deadlines that take into account the constraints upon the issuer.

In the meantime, Mr Secretary General, I remain,

Yours sincerely,



The Director
Alexandre TESSIER

<p style="text-align: center;">CESR CONSULTATION</p> <p style="text-align: center;">PRINCIPLES OF ENFORCEMENT OF ACCOUNTING STANDARDS IN EUROPE</p>

This consultation relates to the enforcement measures intended to define the enforcement of accounting standards at the European level by the regulators.

The various position statements set out below in relation to the definition of enforcers (Part B), companies and documents (Part C), methods of enforcement (Part E) and actions to be taken (Part F), are the result of a process of consideration by AFEP-AGREF together with its members.

PART B: ENFORCERS

***Principle 5:** avoid the competent authority carrying out work of the same type as that of auditors and remove the option to delegate.*

- AFEP-AGREF considers that the term "necessary powers" delegated to the competent administrative authority should be defined more precisely.

In fact it is vital that the issuers should be able to carry out their financial transactions in a stable environment in which the competencies of all the interested parties are clearly defined. That is because the very vague wording which is used will lead to the enforcer doing work of the same type as that done by the auditors.

To avoid such situations, AFEP-AGREF considers it necessary to reiterate the vital role of auditors and quality control systems in the monitoring of financial information and to point out that verification by the competent administrative authority does not entail authentication of the accounting and financial data contained in the information notes.

Once the information has been audited, it should no longer be called into question. Enforcement by the regulator should be limited to examining the relevance and coherence of the information provided on the company's position, without involving authentication of the accounting and financial data which are provided, for which the officers of the company and the auditors of the companies in question are responsible.

- The possibility of delegation - the conditions for which have not been defined (which may be delegated to ...) should be removed, in accordance with the requests put forward by AFEP-AGREF in the context of the amended proposal for a prospectus directive

(directive on the prospectus to be published on the occasion of a public offer of transferable securities or on admission to trading of transferable securities).

This delegation option is, in fact, likely to give rise to great uncertainty for issuers, since the requirements may vary from one authority to another and they cannot anticipate them.

PART C: COMPANIES AND DOCUMENTS

Principle 8: *mention the absence of obligation of publishing individual accounts prepared in accordance with IAS standards and the strong opposition to the introduction of mandatory quarterly information.*

- In view of the fact that the principles of enforcement defined by CESR are equally applicable to single-company accounts and to consolidated accounts, AFEP-AGREF considers it necessary to point out that this does not give the issuer any obligation to publish individual accounts in accordance with IAS standards. In fact the European regulation dated June 2002 does not impose any obligation in relation to these financial statements.
- The AFEP-AGREF considers that publication of quarterly information should be at the discretion of each company. It is strongly opposed to the introduction of mandatory quarterly information.

Indeed the companies consider that compulsory publication will raise particular difficulties for cyclical businesses or those which are highly dependent on erratic factors, since more frequent publications shed more light on ad-hoc events than on underlying trends such as the management and performance of the businesses or activities of the company. Even if the issuer discloses significant figures to the market, the fact remains that the quarterly information forms part of a short-term view which imposes constraints upon issuers in relation to communication.

PART E: METHODS OF ENFORCEMENT

Principle 12: *remind the importance of the ex-post enforcement of the registration document.*

AFEP-AGREF wishes to reiterate its support for the ex-post enforcement of the registration document, which, together with the note on the transferable securities, constitutes the prospectus. It considers that this system should not be considered as a supplementary measure but as an option available to issuers who have already produced several registration documents.

Indeed it is important to maintain the option for "the most mature" issuers (those which have published three consecutive registration documents), to publish a registration document without having to gain prior approval from the competent administrative authority in the

Member State of origin in accordance with the situation introduced in France by the COB in 2001.

PART F: ACTIONS

Principle 16: *only publish a corrective note in the case of a material misstatement and set up a new consultation process.*

- According to principle 16, departures which are *non-material* do not necessarily entail publication of a corrective note. Conversely this implies that non-material departures might give rise to publication of corrective notes.

First of all AFEP-AGREF wishes to reiterate that, in the context of the reform of the approval procedure initiated by the COB in 2000 and 2001, the conditions for publication of a corrective note have been limited to specific cases. Only in the case of a *material misstatement* is it envisaged that a correction might subsequently be issued for documents already published. A material misstatement is defined as any omission or inaccuracy which contravenes the texts of the competent administrative authority and seriously impedes investors' judgment.

Rather than being exposed to the possibility of corrections having to be issued for non-material departures, issuers consider it more appropriate to define the conditions under which the competent administrative authorities may demand that they publish corrections. Indeed an investor will be more sensitive to publication of a correction relating to material misstatements than to a correction on non-material departures. If corrections are published frequently on non-material points this could significantly "cloud" the market's perception of the issuer in question, thus running counter to the stated objective of the relevance of information.

The AFEP-AGREF therefore proposes that public corrections should only be used in the case of material misstatements and that these principles and stipulations should be set out in the procedures put in place by CESR.

- Furthermore, in order to limit the publication of corrections, which has grave consequences for the issuer, AFEP-AGREF considers that it would be useful to put a system in place within the competent administrative authority that would make it possible to issue a position statement approved by the regulator within a deadline that respects the constraints upon the issuer.

A consultation with a person assigned to that role on the basis of his experience and independence within the competent administrative authority would make it possible to resolve departures in the ad-hoc management of a case, within a period which is compatible with those set out in the proposal for a prospectus directive.

In any case, the position statement thus defined would be permanent and published by the competent administrative authority without causing any damage to the interested party.

It should be noted that a procedure of this kind is set out in the French regulations (regulation no. 90-07 concerning the 'ruling' procedure of the COB).