Deutscher Industrie- und Handelskammertag

Bundesverband der Deutschen Industrie

POSITION PAPER

OF

THE ASSOCIATION OF GERMAN CHAMBERS OF INDUSTRY AND COMMERCE
THE CONFEDERATION OF GERMAN INDUSTRY

ON THE
COMMITTEE'S OF EUROPEAN SECURITIES REGULATORS PROPOSED STATEMENT OF PRINCIPLES OF ENFORCEMENT OF ACCOUNTING STANDARDS IN EUROPE

Brussels, Berlin, January, 13, 2003

Friedemann Götting (DIHK) phone:++32.2.286.1620
Peter Wiesner (BDI) phone:++32.2.548.9027

The consultative paper contains a Statement of Principles (SOP) covering definition and methods of enforcement of accounting standards within the European Union. For the most part it provides an appropriate framework for the steps to be taken by Member States and the European Union in the near future. At the latest in the end of 2004 a powerful enforcement regime has to be established in every Member State.

Unfortunately the SOP does not contain any remarks about the possibility of a genuine European enforcement, such as an European enforcement authority or a private European enforcement organization supervised and mandated by an European authority. In any case it is nevertheless important that **Principle 20** states coordination in enforcement, which is necessary in order to avoid significant differences in quality of enforcement within the European Union. Especially coordination has to take place in the fields of standards of inspection and assessment, working methods and sanction measures of national enforcement organizations.

One of the main approaches of the Principles must be to allow different organizational models of enforcement as long as the obligation in Recital 16 of the IAS/IFRS Regulation is met. According to that, a proper and rigorous enforcement

regime has to be set up, i.e. Member States are required to take appropriate measures to ensure compliance with international accounting standards.

At present there are three possible enforcement models being discussed in Germany. One stands for a pure state-run solution, the other one for a pure private-run institution and the third one combines private and state elements, i.e. a private enforcer with mandatory power lended by a government/administrative authority. Basically the Principles cover the three of them. With regard to the non-pure state-run models, however, we suggest to be more exact in the wording. Otherwise the SOP might imply doubts whether a non-pure state-run model is suited to assure the quality of financial reporting and proper functioning of the capital markets.

In the **explanation of Principle 16 – Principle 19** it says, „a range of possible actions are available to enforcers (e.g. request for reconciliations or a corrective note, restatements, delisting)“. Since a private enforcer is not in a position to delist a company, a clarification has to be added here to make clear that the Principles do not favour a pure state-run solution. This could be reached by changing the wording as follows „... delisting – which would in case of a private enforcer acting on behalf of an administrative authority have to be executed by the administrative authority on behalf of the enforcer“.

According to the **explanation of Principle 20**, the CESRfin's Sub-Committee on Enforcement shall be the forum where „regulators“ compare their experience in the field of enforcement on a regular basis with the aim of convergence. In case of an establishment of the mixed enforcement model, a private enforcer as a non-regulator would not be allowed to join the Sub-Committee on Enforcement. Thus we propose to use a general phrase like „enforcer“ instead of the more restricted word „regulator“.

Besides, we suggest to place **Principle 9 – Principle 10**, which give a definition of „enforcement“, at the beginning of the statement instead of in the middle.