

The Committee of European Securities Regulators (CESR)
Mr. Fabrice Demarigny, Secretary General

15 January 2003

/LJE, JCN

Proposed Statement of Principles of Enforcement of Accounting Standards in Europe

Dear Mr. Demarigny,

The Danish Commerce and Companies Agency has, with great interest, read the consultation paper "Proposed Statement of Principles of Enforcement of Accounting Standards in Europe" from October 2002, on which CESR has requested comments.

The Danish Commerce and Companies Agency regards the consultation paper as a significant first step in the debate on the enforcement of IAS/IFRS in Europe and welcomes the consultation paper on this basis.

By way of introduction, it should be noted that the Danish Commerce and Companies Agency is today responsible for the drafting of Danish accounting legislation for all business enterprises with the exception of financial enterprises (banks and insurance companies) and for checking and supervising compliance with the existing accounting, company and auditing legislation.

The approx. 100,000 Danish companies with limited liability are all under an obligation to submit an annual report (annual accounts) to the Danish Commerce and Companies Agency.

Since 1994, the Danish Commerce and Companies Agency has been under an obligation to perform random selections and checks of the annual reports received as well as the accompanying auditor's reports for the purpose of ascertaining obvious violations of the existing legislation, including accounting, company and auditing legislation. The Danish Commerce and Companies Agency's accounting checks comprise all non-financial companies, incl., not least, of course, listed, non-financial companies.

The selection for checks is partly random and partly based on previous experience with the company, its management or auditor.

DANISH COMMERCE AND COMPANIES AGENCY

Kampmannsgade 1
DK - 1780 Copenhagen V

Tlf +45 33 30 77 00

Fax +45 33 30 77 99

CVR-nr. 10 15 08 17

Eogs@eogs.dk

www.eogs.dk

MINISTRY OF ECONOMIC AND BUSINESS AFFAIRS

The checks that are performed today are based on an examination of the annual report and the informed disclosed in the annual report, including, of course, the auditor's report.

With reference to section B "Enforcers", the Danish Commerce and Companies Agency finds it important to keep in mind that a wide range of public authorities, auditors, etc. are engaged in checking whether business enterprises use IAS/IFRS correctly. The choice of how the checks are performed should, to a great extent, depend on how the individual countries have organised their systems. The Danish Commerce and Companies Agency has noted in this connection that CESR recommends that the member states set up a competent, independent, administrative authority, which has the final responsibility for the enforcement of accounting standards and compliance of the financial information in Europe (principle 1). CESR also recommends in principle 4 that the authority is to be independent of a number of interests, including the government that has set up and funds the authority.

Independence from the government apparatus that has set up the authority could be interpreted to mean that there is no access to appeal the decisions/administrative acts made by the authority. If this is the case, the Danish Commerce and Companies Agency is of the opinion that this constitutes an unfortunate derogation from constitutional principles of law, in accordance with which an administrative decision of an authority can always be brought before either the Minister responsible or a special complaints body, which may be chaired by a judge. In the last resort, it should, of course, also be possible to bring the regulator's decision before the courts of law.

With reference to section E "Methods of enforcement", it should be noted that the Danish Commerce and Companies Agency finds it important that the use of in-depth substantive in-nature checking, on a cost/benefit basis, is limited to cases in which there are clear indications of non-compliance with IAS/IFRS, as stated in the last section.

The checking of the presence of assets, etc. is first and foremost to be performed by the auditors and should only be reviewed in quite special circumstances. In recent years, the EU has taken several steps, for example recommendations of the independence of auditors and quality control of auditors, to strengthen the quality of the audits performed, and it is therefore natural that the regulators' checks and control work are widely based on the auditors' work.

The introduction of the new checks should not entail that the regulators perform a new audit.

The Danish Commerce and Companies Agency today has sanctions and measures that are so effective that changes to annual reports, etc. are al-

ways made when the Danish Commerce and Companies Agency orders this.

If you require any further information about the experiences of the Danish Commerce and Companies Agency, please feel free to contact us.

With reference to section G “Coordination in enforcement”, the Danish Commerce and Companies Agency notes that we find it of great importance that all relevant regulators are given an opportunity to participate in the forum in which the experiences with enforcement are to be discussed at EU level. The Danish Commerce and Companies Agency also finds it highly relevant that the regulator that actually performs the checks participates. This is of particular relevance where the whole or significant parts of the checking are performed by other regulators than those that are members of CESR.

Yours sincerely,

Niels-Henrik Englev
Deputy Director General