

24 January 2003

Mr Fabrice Demarigny  
Secretary General  
CESR

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Dear Mr Demarigny

## **Proposed Statement of Principles of Enforcement of Accounting Standards in Europe**

The global organisation of Ernst & Young is pleased to comment on the above Consultation Paper issued by CESR.

### **1. Overall comments**

The major challenge facing Europe in delivering a competitive single capital market is effective regulation and enforcement. It is axiomatic that the absence of an effective and coordinated enforcement mechanism throughout the EU severely limits the credibility of EU financial reporting. This is particularly relevant as the EU approaches the 2005 watershed, where a single system of financial reporting demands robust and rigorous enforcement that is applied consistently and on the basis of a level playing field across all EU Member States. In the light of this, we strongly support this initiative undertaken by CESR to develop standards of best practices of enforcement amongst its members.

Our comments on the SOP are set out under two headings: “General observations” and “Interpretation of IFRS”.

### **2. General observations**

In commenting on the SOP, we cannot avoid stating that we are somewhat disappointed by the overall message that it conveys. Whilst we understand fully what CESR has tried to achieve within its own political context, we do not believe that the principles set out in the document are articulated in strong enough terms. We see enforcement as too crucial an issue, both to the development of a single European capital market and to the restoration of public confidence in financial reporting, for the harmonisation of the EU system of enforcement to be hampered by uncertainty created by lack of clarity over the principles. Regrettably, some of the language used in the SOP raises question marks over whether the twenty-one Principles will be able both to create a level playing field within the EU and deliver a system of enforcement that is robust, rigorous and consistent.

This is illustrated by the use throughout the document of words such as “normally” and “may”. Specifically, we consider the language used in Section F – Actions – (which is arguably the

most crucial aspect of the document), to be particularly equivocal, and therefore open to inconsistent interpretation and application in different EU Member States.

Consequently, if enforcement in the EU is to be undertaken on the basis of strong co-ordination between individual EU Member States (a policy with which we concur), then we believe that greater clarity and certainty of meaning should be incorporated into the principles.

### **3. Interpretation of IFRS**

We are particularly concerned about the fact that the SOP avoids dealing with the issue of interpretation. Although Principle 20 states that “material controversial accounting issues will be conveyed to the bodies responsible for standard setting or interpretation” and that “no general application guidance on IFRSs will be issued by the enforcers”, we fail to see how this can be avoided in practice. It would seem, therefore, that instead of meeting the issue head-on, CESR has sidestepped it.

As CESR members are only too aware, the real-time nature of enforcement does not allow for the luxury of referring day-to-day interpretative issues to bodies such as the IASB and IFRIC. By definition, enforcement actions could well involve interpretation. Moreover, where systems of pre-clearance exist (which is already the case in some Member States and is likely to become more widespread), each decision will necessarily involve interpretation. Consequently, it will be necessary either to prohibit any form of pre-clearance – a course of action which we consider to be both impracticable and undesirable – or require that CESR members communicate publicly the details of pre-clearance decisions that involve matters of IFRS interpretation. It may be that these issues will subsequently be picked up by IFRIC for consideration, but this will always be over a much longer time frame than the capital markets demand. In any event, though, it is clear to us that a coordinated pan-European system of interpretation will always be preferable to interpretation on an individual Member State basis. We therefore believe that CESR should consider how this could be achieved, including consideration of the role that EFRAG and the accounting profession may play in achieving this.

At the same time, we are also aware that the US SEC may well, through its own system of pre-clearance and enforcement in respect of EU companies that have US listings, effectively issue IFRS interpretations. We therefore urge CESR to change its stance on this matter and, through its membership of IOSCO, to ensure that the need for the SEC by itself to issue interpretations on IFRS is limited as far as possible, and that any IFRS interpretations made by the SEC are placed on the public record.

In conclusion, we would like to reaffirm our support for CESR in the development of best practices of enforcement amongst its members. We emphasise that our comments are directed solely towards ensuring that robust and rigorous enforcement, that is applied consistently and on the basis of a level playing field across all EU Member States, becomes a reality.

Yours sincerely

