



MEDEF

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Proposed Statement of Principles of Enforcement of Accounting Standards in Europe Consultation Paper - Ref: CESR/02.188b

Medef Position

First of all, we would like to note that this Statement of Principles represents a real progress in the way towards harmonisation of enforcement systems. Some points were particularly difficult to solve due to important differences in European countries' practices and CESR has succeeded in finding good compromises.

1 – Definition and scope – Methods of enforcement

Principles 1 to 15 seem to be satisfactory and their application would constitute a real progress. For instance, selection methods seem to be correctly defined.

Two points need to be specified:

- The articulation between auditors' and regulators' tasks and powers (how the cooperation would be organised, how a potential conflict of view could be solved...)
- Enforcement concerns financial statements prepared on a consolidated basis and on an individual basis. How will it be possible to harmonize enforcement if individual accounts are still prepared in national GAAP ?

2 – Actions

Principle 16 states that *“where a material misstatement in the financial information is detected enforcers should take appropriate actions to achieve an appropriate disclosure and where relevant, correction of misstatement”*.

We perfectly agree with this concept and understand that enforcers must be able to react more quickly than what standard setters or justice court can do. Nevertheless, we want to stress the fact that the range of possible actions available to enforcers must not include delisting. This decision, even if we understand perfectly well that CESR considers it as an action for very extreme cases, must not be taken by an enforcer but by a court or, as it is the case in France, by the market maker. If it is necessary to react very quickly because of an immediate danger represented by the issuer listing, a summary procedure (*“procédure en référé”*) could be engaged or a listing suspension could be decided. We estimate that this point is important because practices are very different in Europe; as the guidance is not very detailed, the

illustrative list, which includes delisting as an example, gives an important idea of the spirit of those actions and will count in the harmonisation efforts.

The second point raised during the open hearing of January that we would like to comment is the definition chosen to characterise materiality of misstatements. “Misstatements are material if they are able to affect investors’ decision and may have a negative impact on market confidence.” As it has been expressed, the idea of negative impact on market confidence is too wide and could lead to take into account misstatements that are not important. We agree with CESR’s argument saying that the case where an issuer only communicates on good news can correspond to a material misstatement. But this definition, which directly makes a reference to a negative impact on market confidence, is too large to enable a real harmonisation in its interpretation. We think that it is important that CESR goes on working on this definition to find a more rigorous way to cover all situations without introducing a risk of too different interpretations.

3 – Coordination

We think that Principle 20 is a very good principle as it determines the relationship between enforcers and standard setters in a very satisfactory manner. It has been raised, during the open hearing, that, in their mission of interpretation, enforcers would consider that what is not forbidden is allowed. This approach is totally appropriate.

This new way of functioning will be complex to implement, as it will take time to have definitive precisions of interpretation by the IFRIC when it will be needed on specific cases. Some cases could lead to a decision which contradicts enforcers’ position. We understand that there is no easy way to solve this problem but we are really concerned with the risk that can result from this situation: a too important uncertainty would be very damaging for issuers. It is essential that CESR try to find the best solution possible to help European companies to use the IFRS framework in the most satisfactory way possible, without creating an uncertainty period, which could lead to another confidence crisis in accounting principles and financial information.

We believe that the constitution of expert panel, which could have an easy access to IFRIC members for an informal exchange of ideas, constitutes a very interesting idea that could be further considered by CESR.