

Poland
Polish Securities and Exchange Commission

**RESPONSE TO THE CONSULTATION PAPER ON THE PROPOSED STATEMENT
OF PRINCIPLES OF ENFORCEMENT OF ACCOUNTING STANDARDS IN
EUROPE**

The Polish Securities and Exchange Commission (PSEC) operates since 1991 as a central authority of government administration in the field of the public trading in securities.

The Polish Securities and Exchange Commission welcomes the opportunity to comment on the consultation paper setting out the principles of enforcement of accounting standards in Europe.

A. CONTEXT AND SCOPE OF THE SOP

We agree that assurance of enforcement of accounting standards (IFRS, disclosure in prospectus, periodic reporting) constitutes a very important factor in creating an efficient and transparent financial information system on European capital market. It requires a competent and prompt interpretation of accounting standards to ensure a uniform application of these standards in all EU Member States. We expect that the issues of interpretation and information dissemination will be presented in a broader way in the following consultative paper after concluding works on powers to be attributed to the enforcers (see also comments to section G).

B. ENFORCERS

We share the opinion that auditors should play an important role and are the first external line of defence against misstatements in applying accounting and disclosure standards.

We also agree that a competent and independent administrative authority should have the responsibility for enforcement of accounting standards with the possibility of delegation its powers to Self-Regulating Organisations (SRO).

However, the notion of independence of the enforcement authority (laid down in Principles 4 and 5) is not clear enough. The Principle that the administrative authority should have adequate independence from government requires further specification. We understand that defining adequate independence is a challenging task, however, some guidelines could be worked out in this matter e.g. defining the independence of political, financial and regulatory nature (having powers to issue regulations).

Also the paragraph: *'In this context, independence implies that the authorities should not be unduly influenced by the issuers, their auditors, intermediaries, the government or other stakeholders'* could be assisted by some guidelines. In our opinion in order to ensure harmonisation of European enforcement systems, it would be helpful either to present in SOP document an example of an enforcement authority (its composition and structure, taking to account the principle of independence) or to comment more comprehensively on the issue of independence and composition.

C. COMPANIES AND DOCUMENTS

In our opinion, the notion ‘companies’ used in Principle 7 ‘should be replaced by the notion issuers’. Securities issuers may have other legal form than company, for instance according to Polish regulations local governments are authorised to issue bonds. Appropriate accounting and disclosure standards requiring enforcement should be applicable in all cases.

Moreover, it should be considered to apply enforcement rules also to other entities that are not admitted to public trading on a regulated market, e.g. ‘public interest’ entities (banks, insurance companies, investment funds, pension funds, brokerage houses). Assurance of reliable application of accounting and disclosure standards by these entities will positively affect the safety of their clients financial resources.

Principle 8 – we think that enforcement rules should also apply to non-financial information included in the mentioned documents, e.g. reports on issuer’s activities, which according to Polish regulations constitute part of issuer’s annual report, as well as non-financial information included in ‘additional information’ (in prospectus, annual or semi-annual reports) or comments to quarterly reports. Therefore, we suggest extending Principle 8 to non-financial information which accompanies financial information.

Harmonisation of financial documents submitted by issuers (Principle 8) prepared on individual and consolidated basis is a very important matter. There are two approaches to this problem. Some regulations (including Polish) enumerate in a detailed way what these documents should comprise of (balance sheet, profit and loss account, changes in capital, cash flow account and additional information). This ensures application of the uniform terminology and sequence of enclosed information. IAS/IFRS are the example of the second approach. In IAS/IFRS there are only general guidelines setting out minimum scope of information on particular contents of financial statement without indicating their formats (patterns).

In our opinion it is essential to describe in detail content as well as include example patterns of both individual and consolidated financial statements taking into account the specific type of issuer’s activity. This is very important for harmonisation of the scope of financial statements and for comparability of documents as well as assuring appropriate enforcement. Such harmonisation would also enable development of electronic systems that could transfer periodic reports via electronic way. As a result, such documents as prospectuses, interim or annual reports could be accessible on Internet.

D. DEFINITION OF ENFORCEMENT

Principle 10 – basing on the *Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards* we suggest that IAS and appropriate interpretations – SIC and IFRIC should be also taken into consideration when defining IFRS. It would be also helpful to comment on the role of EU accountancy directives, which are currently being amended.

Moreover, the Principle 10 set forth in SOP document does not cover reporting framework for issuers applying other than IFRS acknowledged standards, for instance US GAAP (foreign issuers, bonds issuers). The mentioned above *Regulation (EC) 1606/2002* allows Member

States to postpone for foreign and bonds issuers the adoption of IFRS till 2007. In our opinion this matter should be discussed in the next document.

E. METHODS OF ENFORCEMENT

We support the idea of transition period for auditors to allow them to adopt gradually the selection methods provided for by Principle 13 (mixed selection technique based on combination of a random selection and rotation method). We also agree that the level of risk should determine the intensity of the review to be performed by the enforcers taking into consideration that enforcement methods should guarantee appropriate level of possibility to reveal infringements.

We confirm that the efficiency of enforcement depends on accessibility of additional information on the issuer and the auditors should have appropriate competence in this field to obtain it. Another important factor assuring efficient enforcement is appropriate level of resources for setting up enforcement procedures i.e. appropriate amount of independent, well-educated and impartial auditors as well as financial resources necessary for carrying out enforcement process. The selection of enforcement method is determined by the above factors.

In our opinion, in order to assure reliability of financial information and to harmonise enforcement methods, SOP should set out principles for enforcers possible reaction in cases when they come across objections or remarks in auditors' reports on issuer's financial documents and also in case when an auditor refrains from passing an opinion or passes a negative one.

In comment to section E it has been rightly noted that the result of the enforcement of some documents published by an issuer (e.g. its consolidated financial statements) may have an impact on estimating the risk associated with other financial information provided by the same company (e.g. its individual statements). Nevertheless, a conclusion is missing whether in such a situation all documents connected with the discovered infringements should be audited which would lengthen the enforcement period.

F. ACTIONS

In section F an important matter has been presented that it is necessary to distinguish actions taken by the enforcers aimed at improving market confidence and integrity (correction of misstatements) from sanctions aimed at punishing the infringer. However, it should be explained in the following SOP document, whether an administrative authority (enforcer) should have competence to apply both of these measures, especially in the context of principles on powers to be attributed to enforcement.

G. COORDINATION IN ENFORCEMENT

In general we agree with the Principle 20 laid down in SOP document that enforcers should not be able to interpret IFRS as it is a competence of a relevant authority responsible for setting out IFRS. This principle requires, however, development of an information exchange system between EU enforcers and authority competent to interpret IFRS. The enforcers should be enabled to submit their own interpretation problems or questions coming from entities preparing financial statement and their auditors. The rule that the IFRS Interpretation

Committee answers no individual questions on accountancy causes practical problems. Another very important factor is period within which an answer can be received since issuers and auditors expect a prompt response on their doubts in order to apply properly relevant standards in current financial statements.

Therefore, in our opinion the issues of communication between EU enforcers and relevant authorities competent to interpret IFRS, the role of enforcers and other national authorities (accountancy committees) should be presented more broadly in the part concerning enforcers of the following SOP paper.

H. REPORTING

No remarks to this section.