

TERMS OF REFERENCE

European Enforcers Common Sessions (EECS) Permanent Group of the Corporate Reporting Standing Committee (CRSC)

Background

1. The ESMA Regulation¹ states that ESMA shall act within the powers conferred by this Regulation and among others within the scope of Directive 2004/109/EC (the Transparency Directive) and “in the field of activities of market participants in relation to issues not directly covered in that Directive, including [...] auditing and financial reporting, provided that such actions are necessary to ensure the effective and consistent application”. Within ESMA, the Corporate Reporting Standing Committee (CRSC) contributes to ESMA’s work on issues related to accounting, audit, periodic reporting and storage of regulated information. ESMA should actively foster supervisory convergence across the Union with the aim of establishing a common supervisory culture.
2. One of the main responsibilities of the CRSC is the coordination of the activities of National Competent Authorities (NCAs) from the European Economic Area (EEA) relating to the enforcement of compliance with International Financial Reporting Standards (IFRSs) in order to achieve consistent application within the EEA and to avoid arbitrage amongst enforcers, a task which is performed through the European Enforcers Coordination Sessions (EECS).
3. The terms of reference for EECS are set out below, and are to be read together with the ESMA Regulation (in terms of ESMA’s task of fostering supervisory convergence), the terms of reference of the CRSC (ESMA/2013/43rev) and the ‘Procedures for ESMA groups’ (ESMA/2012/236rev2). The EECS is established as a permanent subgroup under the auspices of the CRSC, it is accountable and will report the results of its activities to the CRSC.

Objectives

4. The main objective of the EECS is to promote common supervisory approaches and practices across Member States by enhancing mutual understanding, thereby improving convergence of enforcement decisions across Europe and promoting consistent application of IFRS.

¹ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority) amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC

Main functions

5. The main areas of focus will be issues related to the Transparency Directive and Prospectus Directive in relation to the application of the Commission regulation no 1606/2002² on the application of IFRS. This includes notably:
 - Identification of common priorities of enforcement at European level and communication of such areas.
 - Analysis and discussion of individual IFRS enforcement decisions taken by national competent authorities and emerging financial reporting issues under IFRS with the view to achieve harmonisation and coordination of future decisions.
 - Identification of issues which are not covered by financial reporting standards or which may be affected by conflicting interpretations for referral to standard-setting or interpretative bodies such as the IASB and the IFRS IC;
 - Exchange of views and experiences on methods for supervising the financial information of companies offering publicly securities and/or having these securities listed on an EEA regulated market;
 - Identification of areas of divergence in the application of IFRS across the EEA with the view of taking proper enforcement actions and/or communication to IASB/IFRS IC;
 - Compilation of decisions into the enforcement database and publication of a selection of enforcement decisions on a regular basis.

Structure

6. The EECS will act as a forum in which NCAs from the EEA exchange views and discuss experiences on enforcement of financial information in order to achieve harmonisation in enforcement decisions. According to article 24 (1) of the Transparency Directive member states can choose not to use the securities regulator as the NCA, but instead give responsibilities to another body or cooperate with such a body. For this reason, EECS has been extended to those bodies carrying such responsibilities where a member state took that option. In that case, all dispositions are applicable to those members and they are subject to a confidentiality regime.

Working procedures

7. Functioning of EECS is governed by the ESMA Guidelines on enforcement of financial information (ESMA/2014/1293).
8. Each NCA should appoint one representative to EECS. That representative should be interested in actively participating in the EECS's work and shall be a senior official directly concerned with the enforcement of financial information requirements.

² European Commission Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of International Accounting Standards

9. The NCA representative in EECS is expected to be appropriately briefed in order to participate to the discussion. Nevertheless the NCA representative can be accompanied by another expert from its authority.
10. ESMA staff will provide support to the work of the EECS and will facilitate the coordination between the EECS and other ESMA groups, and in particular the IFRS Project Group.
11. EECS meetings are expected to take place on average every six weeks and to last two days (except during the summer break) but may take place more or less frequently depending on the circumstances.