



European Securities and
Markets Authority

Report

ESMA Report on Enforcement and Regulatory Activities of Accounting Enforcers in 2015

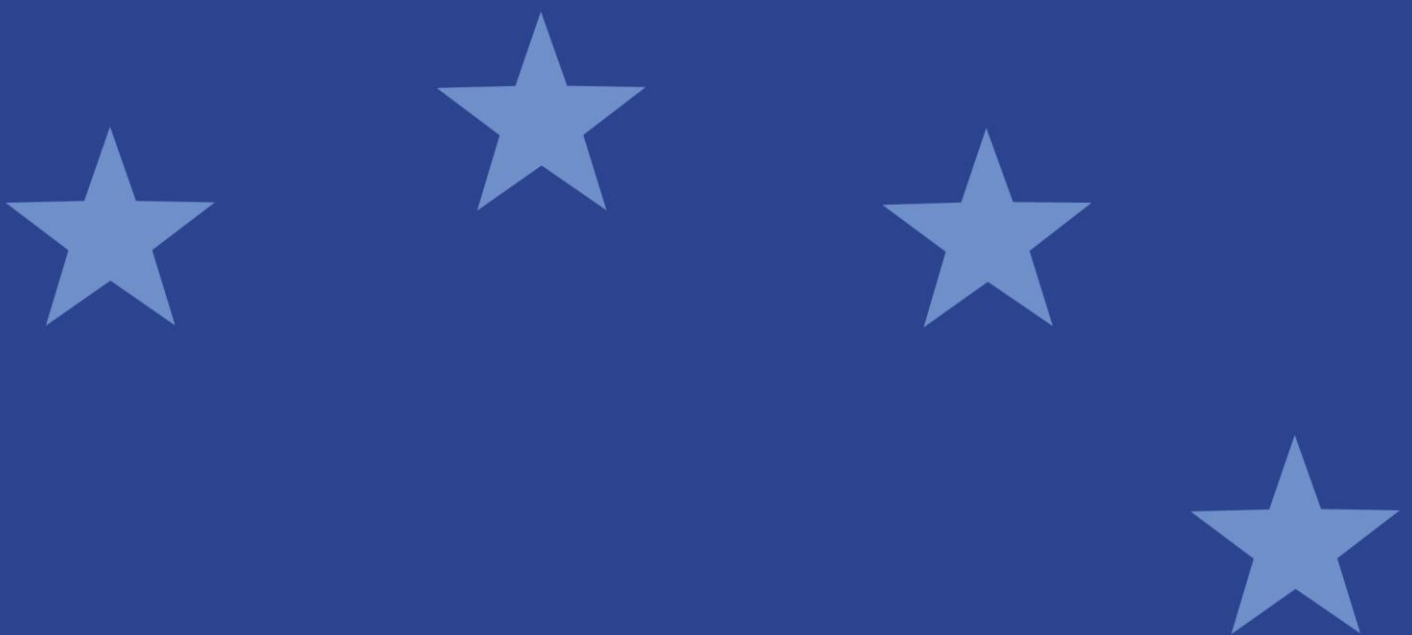




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Abbreviations and acronyms used in this report

APM	Alternative Performance Measures
ARC	Accounting Regulatory Committee
DGS	Deposit Guarantee Schemes
EC	European Commission
EEA	European Economic Area
EEAP	European Electronic Access Point
EECS	European Enforcers Coordination Sessions
EFRAG	European Financial Reporting Advisory Group
ESEF	European Single Electronic Format
EU	European Union
GAAP	Generally Accepted Accounting Principles
IAS	International Accounting Standards
IASB	International Accounting Standards Board
IFRS	International Financial Reporting Standard
IFRS IC	International Financial Reporting Standards Interpretation Committee
iXBRL	Inline Extensible Business Reporting Language
NCA	National Competent Authority
PDF	Portable Document Format
RTS	Regulatory Technical Standards
US SEC	United States Securities and Exchange Commission
XBRL	Extensible Business Reporting Language

Audit Regulation	Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC.
Market Abuse Regulation	Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC
ESMA Regulation	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.
IAS Regulation	Regulation (EC) No 1606/2002 of 19 July 2002 of the European Parliament and of the Council on the application of International Accounting Standards.
Transparency Directive	Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market. ¹

¹ As last amended by Directive 2013/50/EU of the European Parliament and of the Council of 22 October 2013.

1 Executive Summary

This report provides an overview of the activities of the European Securities and Markets Authority (ESMA) and the accounting enforcers in the European Economic Area (EEA), thereafter, 'European enforcers', when examining compliance of financial information provided by issuers listed on regulated markets with the applicable financial reporting framework in 2015. It also provides an overview of the main activities performed at European level, quantitative information on enforcement activities in Europe as well as ESMA's contribution to the development of the single rule book in the area of financial reporting. In addition, it also outlines ESMA's activities for 2016 in the area of corporate reporting following its Supervisory Convergence Work Programme.

Supervisory Convergence

Following the implementation of the ESMA Guidelines on enforcement of financial information (hereafter the Guidelines on enforcement), ESMA and European enforcers have further strengthened supervisory convergence in the area of enforcement of financial information. The Guidelines on enforcement significantly contributed to the alignment of supervisory approaches/procedures through the use of harmonised key concepts for examinations, of a common set of enforcement priorities, of common rules for enforcement actions and of a single set of criteria for identifying accounting matters for which coordination at European level within ESMA is needed. In the last area, the number of accounting issues discussed by the enforcers before taking enforcement decisions increased significantly (65 emerging issues in 2015 vs 47 in 2014) and contributed to enhancing supervisory convergence as enforcers should take into account the outcome of these discussions when taking decisions .

In 2015 ESMA and European enforcers evaluated the level of compliance with IFRS in the areas identified as common enforcement priorities for the 2014 annual financial statements on a sample of 189 issuers. This assessment resulted in 40 enforcement actions being taken on shortcomings in the disclosures of assumptions and judgements supporting the recognition of deferred tax assets arising from tax losses, when assessing control or classifying joint arrangements.

As in previous years, ESMA together with European enforcers identified and included in their supervisory practices a set of common enforcement priorities significant for European issuers when preparing their 2015 IFRS financial statements. These priorities include the impact of the financial markets' conditions in IFRS financial statements, presentation of the statement of cash flows and related disclosures as well as the fair value measurement of non-financial assets and related disclosures. Specific references to some of the 2014 common priorities and to the new IFRS requirements, notably on IFRS 9 *Financial Instruments* and IFRS 15 *Revenue from Contracts with Customers* are also part of these priorities.

As a response to increased concerns in the markets, ESMA issued Guidelines on Alternative Performance Measures (hereafter the Guidelines on APMs) which are aimed at contributing to the publication of transparent, unbiased and comparable information by European issuers on their financial performance. The Guidelines on APMs will apply to APMs disclosed by issuers when publishing regulated information or persons responsible for the prospectus. European enforcers had to adapt their supervisory procedures and declare their compliance to these guidelines.

Also as part of the supervisory convergence activities, ESMA issued an Opinion on the application of the IFRS requirements on the cash contributions to Deposit Guarantee Schemes (DGS) in order to address the divergence in the application and enforcement in the accounting treatment applicable to these contributions and to prevent it from becoming widespread.

ESMA published a Statement referring to principles relevant for improving the quality of disclosures as a response to concerns expressed by users on the overload, lack of completeness or relevance of the information provided in the financial statements.

Finally, European enforcers examined the interim or annual financial statements of approximately 1,200 issuers representing an average examination rate of 20% of all IFRS issuers with securities listed on regulated markets, out of which 14% related to unlimited scope examinations and 6% to focused examinations. As a result of these activities, European enforcers took actions addressing material departures against 273 issuers, representing around 25% of the selected sample. The main deficiencies were identified in the areas of financial statements presentation, impairment of non-financial assets and accounting for financial instruments.

Single Rule Book

ESMA actively participated to the accounting standard setting process by providing European enforcers' positions on all major new standards issued by the International Accounting Standards Board (IASB) and by contributing to the discussions in the EFRAG Board and the Technical Expert Group (EFRAG TEG) meetings. Notably, ESMA provided specific input to the due process and endorsement advices on IFRS 9, in aspects related to investor protection and financial stability as well as on its interaction with IFRS 4 Insurance Contracts. In addition, ESMA also contributed to the consistent application of IFRS by engaging with the IASB and the IFRS Interpretations Committee (IFRS IC) when relevant issues were identified by enforcers and where a lack of clarity in IFRS could contribute to their divergent application.

In accordance with its mandate under the Transparency Directive, ESMA has submitted to the European Commission for endorsement the draft Regulatory Technical Standards (RTS) on the European Electronic Access Point (EEAP) and published the consultation paper on the draft RTS on European Single Electronic Format (ESEF).

Next Steps

ESMA published its Supervisory Convergence Work Programme which covers, among other topics, the activities of accounting enforcers. In addition to the regular activities, ESMA envisages to start carrying out peer reviews on some of the ESMA Guidelines on enforcement, to publish statements on the implementation of new major IFRS and to develop supervisory briefings to align procedures of European enforcers when monitoring and enforcing the Guidelines on APMs and disclosures in the financial statements.

2 Introduction

1. This report provides an overview of the activities related to the supervision and enforcement of financial information carried out during 2015 at European and national levels in the EU and those countries from the EEA² who have agreed to comply with the Transparency Directive and the IAS Regulation. These are referred to as 'European' activities in this report.
2. Furthermore, it also addresses developments related to ESMA's regulatory role regarding the contribution to the development of the single rule book in financial reporting such as the process of the European system of endorsement of IFRS, interaction with the IASB and activities resulting from the mandate given to ESMA in the amended Transparency Directive.
3. The report is addressed to all stakeholders, including European issuers, investors, auditors, other regulators and the general public. It focuses only on enforcement and regulatory activities related to IFRS financial statements from issuers listed on regulated markets. Consequently, it does not take into account other (non-IFRS) enforcement and regulatory activities conducted by European enforcers.

3 Supervisory convergence activities

4. Promotion of harmonisation of enforcement activities related to IFRS has been an important axe of development in the last years for the European regulators. Being the first year of the application of the ESMA Guidelines on enforcement (ESMA/2014/1293)³, 2015 was an important milestone in strengthening supervisory convergence. A new step of the supervisory convergence has been achieved by aligning further key elements and procedures applied when enforcing financial information which, in accordance with the Guidelines on enforcement, have to be followed by all European enforcers.
5. The activities performed by ESMA and the European enforcers in this area in 2015 are described in detail in this chapter and are followed by an overview of the next steps that ESMA envisages in the area of corporate reporting in accordance with ESMA's Strategic Orientations 2016-2020. Appendix I provides a description of the main features of the European enforcement system on financial reporting with specific references and explanations to the Guidelines on enforcement.

² Iceland and Norway

³[ESMA Guidelines on enforcement of financial information, 28 October 2014, ESMA, Paris, ESMA/2014/1293en](#)

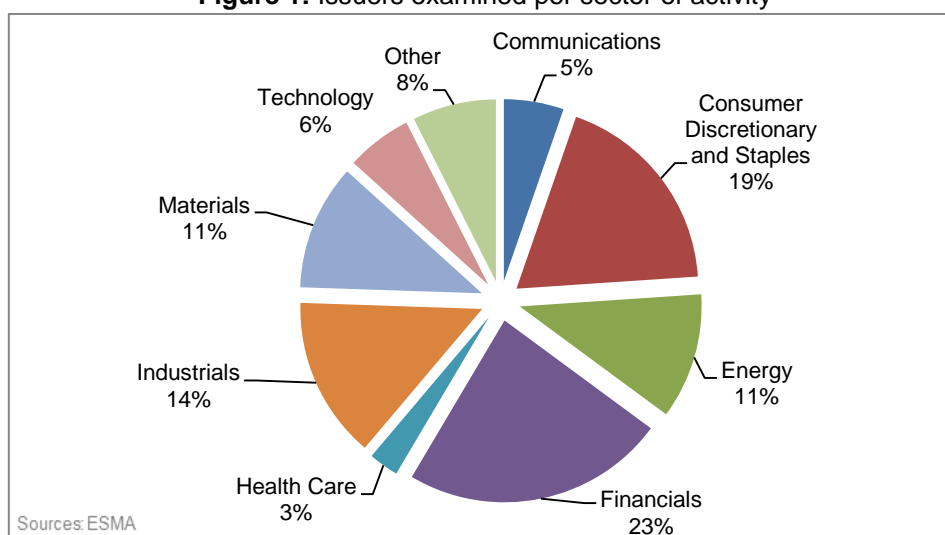
3.1 European Common Enforcement Priorities

6. An important activity in fostering supervisory convergence in Europe is establishing common enforcement priorities for financial reporting and communicating them to stakeholders in advance of the finalisation of the annual financial statements. ESMA has published European Common Enforcement Priorities since 2012 and believes that announcing those priorities in advance of the finalisation of annual financial statements helps to prevent misstatements and contributes to increasing the consistency and quality of financial reporting in Europe.

3.2 Assessment of compliance with 2014 Enforcement Priorities

7. In 2015 European enforcers considered the 2014 European Common Enforcement Priorities (ESMA/2014/1309)⁴ during the examination process of the 2014 annual IFRS financial statements. In order to ensure a relevant assessment at European level, ESMA analysed data provided for a sample of 189 issuers from 26 EEA countries selected for examination by European enforcers. The assessment related to: (a) the application of the accounting requirements on the preparation of consolidated financial statements, (b) the financial reporting by parties to a joint arrangement and related disclosures and (c) the recognition and measurement of deferred tax assets.
8. As shown in the following graphics, the sample examined consisted of issuers from diverse sectors and market capitalisations.

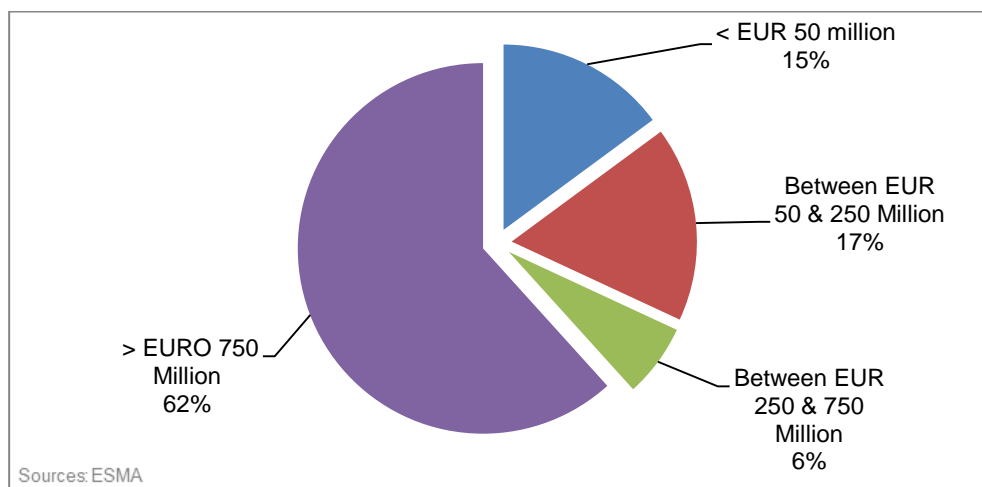
Figure 1: Issuers examined per sector of activity



⁴ Public Statement, European common enforcement priorities for 2014 financial Statements, 28 October 2014, ESMA, Paris, ESMA/2014/1309

9. The category “Other” includes multiple sectors not covered in the other categories, such as Conglomerates and Utilities.

Figure 2: Market capitalisation of issuers examined



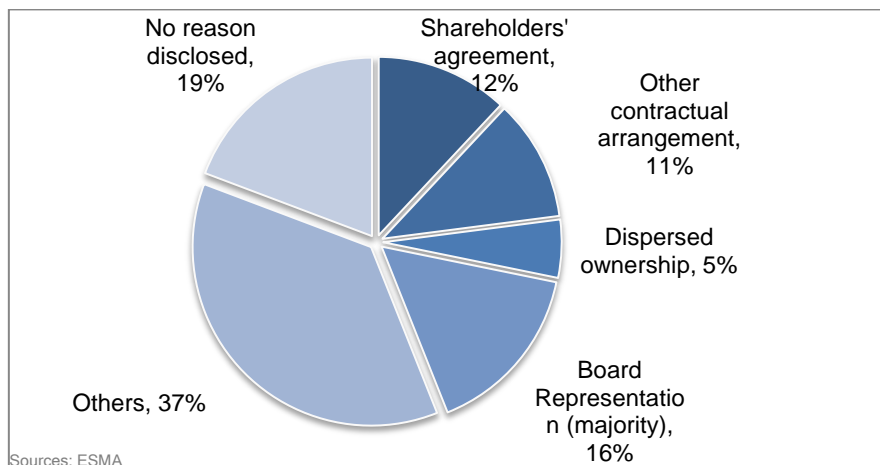
Presentation of consolidated financial statements and related disclosures

10. Considering the date of the first application of IFRS 10 *Consolidated Financial Statements* and IFRS 12 *Disclosure of Interests in Other Entities*, ESMA included specific elements in its 2014 European Common Enforcement Priorities on areas where the application of these standards was expected to pose challenges to issuers, such as where the use of judgement is required or where the differences between the requirements included in IFRS 10 and the previous applicable standard (IAS 27 *Consolidated and Separate Financial Statements*) were significant. The assessment of the compliance was performed on a sample of 103 issuers (from 26 EEA countries) which had material interests in entities where the notion of control was highly judgemental and/or recognised material non-controlling interests in their 2014 consolidated financial statements.

Application of the control principle

11. 55% of the issuers analysed consolidated material entities on which they had less than a majority of voting rights held. In 28% of these cases, the consolidation was justified by the existence of a shareholders agreement or by a majority in the board of directors. In addition, in 37 % of the cases, issuers disclosed other reasons to justify the consolidation of such entities such as commercial dependence of the investees, ability to direct the relevant activities or a combination of different reasons. In the financial sector, information on the purpose and design of the investee was also considered relevant in particular in the cases of special purpose entities. ESMA notes that disclosures were missing in 19% of the cases.

Figure 3: Explanations on consolidation when the issuer had 50% or less of the voting rights



12. When assessing the disclosures provided by issuers controlling an investee with less than a majority of the voting rights, ESMA would have expected issuers to comply with paragraphs 7 and 9 of IFRS 12 by providing entity specific information on the significant judgements and assumptions used. On the examined issuers, it was noted that:
- 43% did not provide effective⁵ information on how the entity justifies that it has power over the investee;
 - 64% did not provide effective information on their exposure, or rights, to variable returns from their involvement with the investee;
 - 58% did not provide effective information on the ability to use their power over the investee to affect the amount of the investor's returns.
13. 13% of the issuers analysed did not consolidate a material investee in which they held more than 50% of the voting rights. While almost 75% of these issuers provided information justifying the non-consolidation (in most cases due to the existence of a contractual agreement between shareholders establishing joint control or providing the control to other significant shareholders), in 25% of these cases the disclosures required by paragraph 9 of IFRS 12 were not provided.

Non-controlling interests

14. 56% of issuers in the sample had material non-controlling interests. Around three quarters of these issuers disclosed the information required by paragraph 12(a)-(f) of IFRS 12 and 57% of them provided complete disclosures on summarised financial information for their material controlling interests as required by paragraphs 12(g) and B10(b) of IFRS 12. Where missing elements were identified (16% of issuers with material NCIs), information on the dividends paid and on revenue and profit or loss of the subsidiaries was usually missing.

⁵ For the purpose of this report, ESMA considers disclosures to be non-effective if they were considered boiler plate or not entity specific.

15. In addition, 57% of the issuers provided information on the allocation of the material non-controlling interests to the respective operating segments as recommended by ESMA in its 2014 Common Enforcement Priorities.

Significant restrictions

16. 21% of the issuers in the sample provided a negative statement or information on significant restrictions on the access or use of assets and settlement of liabilities. In addition, 9% of the issuers with material non-controlling interests provided a negative statement or information on the nature and extent to which protective rights of non-controlling interests can significantly restrict the ability to access or use assets and settle liabilities of the investee.
17. Where information on significant restrictions was provided, 50% of the issuers provided specific details on the specific assets and/or liabilities that these restrictions affect or the country they relate to and 40% disclosed the carrying amounts of the assets and/or liabilities (e.g. cash and cash equivalents) associated to these restrictions.

Structured entities

18. While 26% of the issuers in the sample disclosed material exposures to consolidated or non-consolidated structured entities, only 45% of the issuers which disclosed exposures to consolidated structured entities provided information on the contractual terms of the arrangements which require the parent or its subsidiaries to provide financial support to the consolidated structured entity (as required by paragraph 14 of IFRS 12).
19. Almost 90% of the issuers which disclosed exposures to unconsolidated structured entities provided information enabling users to understand and to evaluate the nature, the extent and the risks associated with its interests in unconsolidated structured entities.

Investment entities

20. Although 10% of the issuers considered that they fulfilled the criteria in paragraph 27 of IFRS 10, and therefore were categorised as investment entities, only 45% of these issuers disclosed information about the significant judgements and assumptions used in this assessment as required by paragraph 9A of IFRS 12.

First time application

21. Although almost one third of the issuers in the sample changed their consolidation method in comparison with the previous year when applying IFRS 10 for the first time, only 70% of them disclosed the changes in their accounting policies in accordance with paragraph 28 of IAS 8 and 40% provided details on the relevant factors used to reconsider the control of their investees.

Enforcement actions

22. As a result of the examination of the 103 financial statements, out of which 6 investigations were still ongoing at the time this assessment was finalised, European enforcers took enforcement actions against 20 issuers. From these:
- 4 required public corrective notes; and
 - 16 required corrections in future financial statements.
23. Most of the actions taken in relation to corrective notes relate to the application of the notion of control, while the corrections in future financial statements were mainly related to omissions of disclosures required by IFRS 12, such as disclosures about significant restrictions to the access of assets or settlement of liabilities of the investee or about non-controlling interests.

Financial reporting by parties to a joint arrangement

24. ESMA included in its 2014 European Common Enforcement Priorities specific elements related to the first application of IFRS 11 *Joint Arrangements* and IFRS 12. In 2015, European enforcers assessed the application of these standards on a sample of 54 issuers (from 24 EEA countries) for which joint arrangements were material.

Joint Operations

25. Around 40% of the issuers analysed in the sample had material joint operations. ESMA would have expected issuers to comply with paragraph 7 of IFRS 12 by providing entity specific information on material joint arrangements.
26. However, and although 73% of these joint operations were structured through a separate legal vehicle, only 25% of the issuers disclosed specific information enabling users to assess whether the parties had direct rights to the assets or direct obligations for the liabilities relating to the joint arrangement. In addition, only 30% of these issuers provided effective disclosures on other facts and circumstances considered when assessing whether the joint arrangement was a joint operation or a joint venture.
27. Although 73% of the issuers with material joint operations disclosed the information required by paragraphs 20(b) and 21(a) of IFRS 12 (such as the name and nature of the issuer's relationship, the principal place of business and the proportion of ownership interest or participating share), further information needed to enable users to evaluate the nature, extent and financial effects of the issuers interests in joint operations (such as the financial impact of such arrangements) was insufficient in some cases.

Joint Ventures

28. Around 80% of the issuers analysed in the sample had material interests in joint ventures. Out of these, almost 90% disclosed the information required by paragraphs 20(a) and 21(a) and (b)(i) and (iii) of IFRS 12 (such as the nature of the issuer's relationship with investee, the principal place of business of the joint arrangement, the proportion of ownership interest or participating share held by the issuer and whether the investment in the joint venture is measured using the equity method or fair value).

29. 66% of the issuers with material interest in joint ventures disclosed summarised financial information for each material joint venture, including dividends received as required by paragraphs 21(b)(ii) and B12 of IFRS 12. 50% of the issuers with material joint ventures disclosed significant commitments or contingent liabilities relating to their interests in joint ventures. Furthermore, only 16% of the issuers with material joint ventures disclosed the nature and extent of significant restrictions related to their interests in the joint ventures.
30. 51% of the issuers with material joint ventures provided information on the net debt and financial performance for each material joint venture and 54% of such issuers also provided information on the allocation of each material joint venture to the relevant operating segment as recommended by ESMA in its 2014 European Common Enforcement Priorities.

First time application

31. Around 78% of the issuers with material joint arrangements changed their accounting policies following the first application of IFRS 11 and disclosed the impacts of these changes in accordance with paragraph 28 of IAS 8.
32. In addition and although, as a result of the initial application of IFRS 11 around 40% of the issuers analysed disclosed changes in the classification from jointly controlled operations or jointly controlled assets to joint venture, only 11% of these issuers provided detailed disclosures on the changes made e.g. the relevant factors leading the issuer to reconsider the relationship with the investee and disclosure of the accounting impacts.
33. In addition, 30% of the issuers in the sample disclosed changes in the classification of joint arrangements from a joint controlled entity (IAS 31 *Interests in Joint Ventures*) to a joint operation (IFRS 11), but only 25% of these issuers provided complete disclosures on the changes made (e.g. the relevant factors leading the issuer to reconsider the relationship with the investees and disclosure of the accounting impacts).

Enforcement actions

34. As a result of the examination of 54 issuers, out of which 5 investigations were still ongoing at the time this assessment was finalised, European enforcers took 10 enforcement actions. From these:
 - 2 required public corrective notes; and
 - 8 required corrections in future financial statements.
35. Most of the actions taken relate to the classification of joint arrangement or missing disclosures required by IFRS 11, such as information provided on the direct rights to assets and obligation to liabilities in a joint operation.

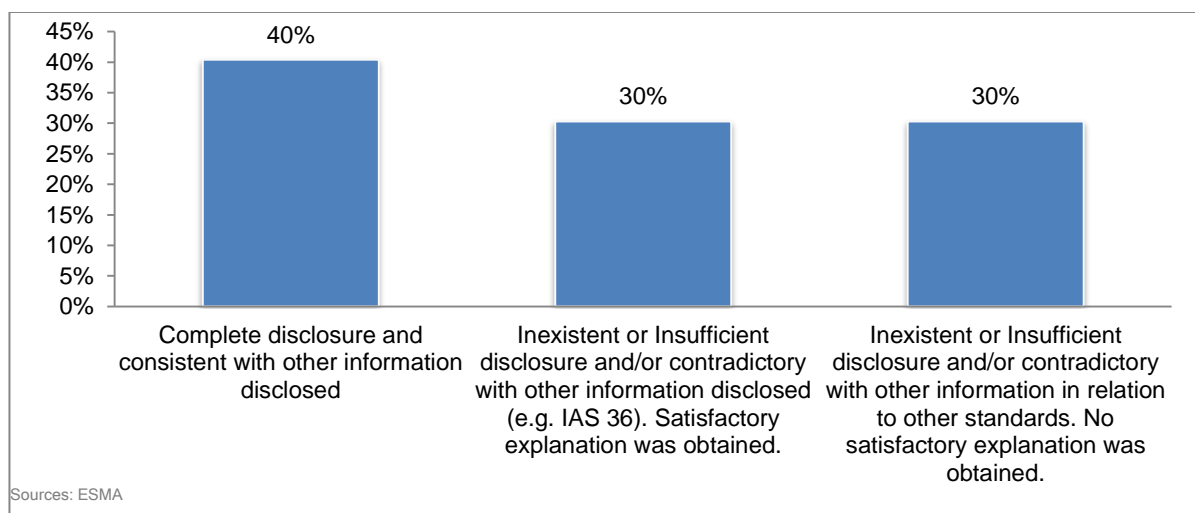
Recognition and measurement of deferred tax assets and uncertain tax positions

36. In the light of the 2014 economic environment and the recurrence of issues identified in the recognition, measurement and presentation of deferred tax assets arising from unused tax losses, ESMA included this topic in its 2014 European Common Enforcement Priorities. The assessment on the application of the IAS 12 requirements related to deferred tax assets and uncertain tax positions was carried out on a sample of 73 issuers with material deferred tax assets or uncertain tax positions from 20 EEA countries.

Deferred Tax Assets

37. While there was a loss in the current or preceding period in the tax jurisdiction to which the deferred tax asset relates, 66% of the issuers recognised material deferred tax assets arising from unused tax losses. However, 31% of these issuers did not disclose any information on the nature of the evidence supporting the recognition of these deferred tax assets.
38. Where the nature of the supporting evidence was disclosed, detailed information on the assumptions used to support the recognition of the deferred tax assets was not provided in 60% of the cases. When requiring further information from the issuer, enforcers were able to obtain more relevant information which supported the recognition of these assets in half of the situations.

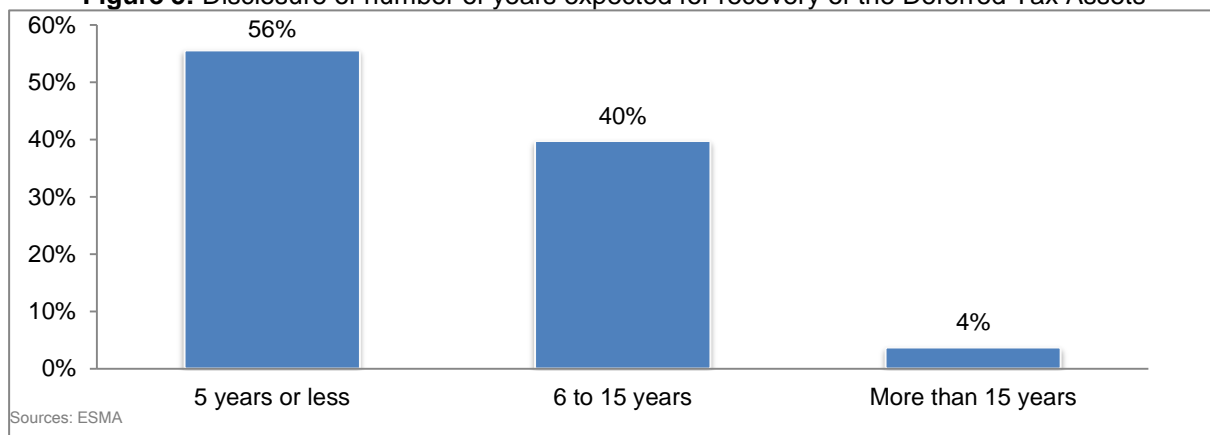
Figure 4: Disclosure of specific assumptions supporting the Deferred Tax Assets recognition



39. In addition, European enforcers considered whether the issuers disclosed to the market the period used in the assessment of the recovery of the deferred tax assets and whether this period was reasonable. Only 27% of the issuers which recognised material deferred tax assets that exceed the amount of suitable existing taxable temporary differences adequately provided information on the period(s) over which they expect that deferred tax assets will be recovered. 44% of the issuers that disclosed the recovery period for deferred tax assets expected to recover the recognised deferred tax assets in a period of more than 5 years.

40. In this regard, ESMA reminds issuers that paragraph 35 of IAS 12 states that existence of unused tax losses is a strong evidence that future tax profit may not be available and issuers should disclose, as required by paragraph 82 of IAS 12, the amount of the deferred tax asset and the nature of the evidence supporting its recognition when an entity has a history of recent losses. Therefore, ESMA would have expected that in such cases and when the deferred tax assets are expected to be recovered over long periods (e.g. more than 5 years as in 44% of the issuers in figure 5) there was sufficient convincing evidence supporting the recognition of these deferred tax assets and this information was disclosed adequately.

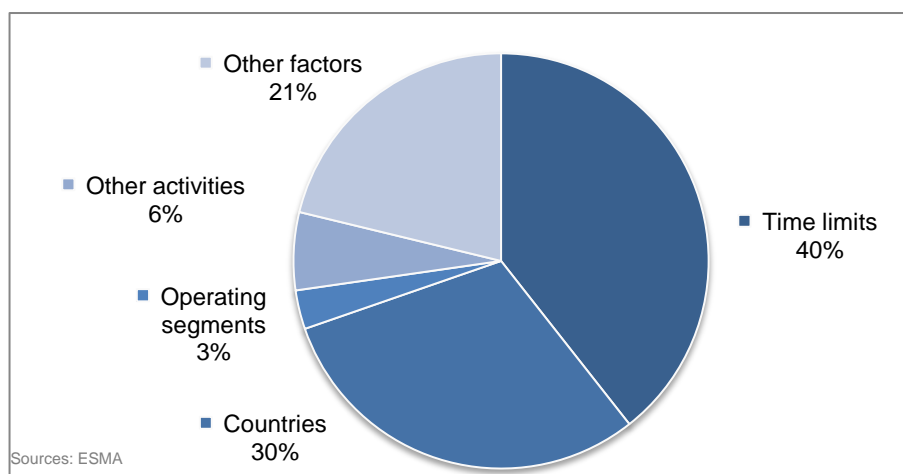
Figure 5: Disclosure of number of years expected for recovery of the Deferred Tax Assets



41. Only half of the issuers in the sample that had recognised deferred tax assets provided information in the notes on the main judgements used when assessing the period expected for the recoverability of the deferred tax assets. In this respect, most issuers justified the different periods used by the existence of different time limits and/or different countries where these tax losses had originated.

42. When providing detailed information on the deferred tax assets recognised, 70% of the issuers disaggregated deferred tax assets by time limits for their utilisation or by country. In some cases, issuers provided information of deferred tax assets disaggregated by origins of the tax losses or combining different criteria such as country and reasons for the tax losses.

Figure 6: Criteria for disaggregation of the deferred tax assets



Uncertain tax positions

43. In addition, although 25% of the issuers analysed in the sample had material uncertain tax positions, only 56% of those disclosed their accounting policy regarding their recognition in the financial statements. Although 67% of the issuers which had material uncertain tax positions recognised assets or liabilities in the statement of financial position, only 25% of these issuers disclosed their measurement basis.

Enforcement actions

44. As a result of the examination of 73 issuers, out of which 8 investigations were still ongoing at the time this assessment was finalised, European enforcers took 10 enforcement actions. From these:
- 2 required public corrective notes; and
 - 8 required corrections in future financial statements.
45. Most of the actions taken related to the supporting evidence for the recognition of deferred tax assets or information about significant uncertain tax positions. Considering the results, ESMA and the European enforcers are currently assessing future steps to be taken in this area, notably, identifying if there is a need for further convergence in the application and enforcement of the relevant IAS 12 requirements and / or need to report to the IASB/ IFRS IC any difficulties encountered due to a lack of clarity in the standard.

Conclusion

46. Overall, enforcement actions have been taken against a quarter of the issuers included in the sample of 189 issuers. In many cases, enforcement actions cover several areas of the same set of IFRS financial statements. In relation to the application of the new consolidation package, ESMA and European enforcers acknowledge the good quality of application of IFRS requirements in the 2014 financial statements. ESMA believes that there is still room for improvement in the application of the IAS 12 requirements related to recognition, measurement and disclosures of deferred tax assets arising from tax losses. Therefore, in light of the economic environment as well as of the fact that the examination is performed on a sample basis, where material, these areas will continue to be analysed in 2016.

Table 1: Enforcement actions on the sample of issuers in the European Common Enforcement Priorities

Enforcement Action	Consolidated financial statements	Joint arrangements	Deferred tax assets and uncertain tax positions	Total number of enforcement action
Public corrective notes	4	2	2	8
Corrections in future financial statements	16	8	8	32
Total number of enforcement actions	20	10	10	40
Sample size	103	54	73	189 ⁶
Sample action rate	19%	19%	14%	21%

3.3 European Common Enforcement Priorities for 2015 Financial Statements

47. ESMA together with European enforcers identified European Common Enforcement Priorities in advance of the preparation, audit and publication of the 2015 annual IFRS financial statements. The ESMA Statement (ESMA/2015/1608)⁷ contains the financial reporting topics that were identified as particularly important for European issuers on the basis of relevant economic and financial market conditions observed in 2015. When selecting the topics, ESMA took into account the result of the reviews of financial statements performed in 2015 and consulted with the Consultative Working Group of the Corporate Reporting Standing Committee.
48. The 2015 priorities focus on the impact of the financial markets conditions on the financial statements, the statement of cash flows and related disclosures as well as the fair value measurement of non-financial assets and related disclosures. Specific references to some of the 2014 common priorities and to the new IFRS requirements, notably on IFRS 9 and IFRS 15 are also part of these priorities
49. Monitoring the way issuers address these priorities is part of the work programme of ESMA and European enforcers, who will consider these topics in their examinations of the 2015 year-end IFRS financial statements. ESMA will report in its Activity Report for 2016 on how European issuers applied the IFRS requirements on these topics.

⁶ As enforcement examinations might cover several areas of the same set of IFRS financial statements, the total number of issuers is lower than the total of the sample sizes in the respective areas.

⁷ [Public Statement, European common enforcement priorities for 2015 financial statements, 27 October 2015, ESMA, Paris, 2015/ESMA1608](#)

3.4 Coordination of enforcement decisions

50. In accordance with the Guidelines on enforcement, ESMA has a coordination role in analysing and discussing enforcement issues in respect of IFRS financial statements. Most discussions in the European enforcers Coordination Sessions (EECS) refer to issues that fulfill the submission criteria set out in the Guidelines on enforcement such as issues that might be of significant importance to European markets or of widespread effect in Europe. Discussions can take place on an ex-ante (emerging issues) or an ex-post (decisions) basis and usually deal with a variety of situations where enforcers seek guidance and insight from fellow enforcers prior to taking a decision. EECS discussions offer an opportunity to benefit from the experience of other enforcers who already encountered similar issues, and to discuss their analysis of technical issues. When time constraints do not allow waiting until the next EECS physical meeting (8 meetings took place in 2015), emerging issues are discussed during ad hoc conference calls or through written procedure. When taking an enforcement decision, European enforcers should take in account the outcome of these discussions.
51. From discussions on emerging issues and decisions, ESMA gains a sense of the application of IFRS in Europe and of the main topics which pose challenges to issuers. In 2015, 65 emerging issues and 67 decisions were discussed in the EECS. The discussions and the conclusions reached by European enforcers at EECS are intended to improve the level of consistent application and enforcement of IFRS subject to the specific facts and circumstances of the situations or transactions discussed. The examples presented below are neither intended to represent all types of issues discussed nor all areas where the application of IFRS was challenged by European enforcers. They are merely illustrative of some of the issues most frequently found.

Fair value measurement (IFRS 13)

52. ESMA and European enforcers regularly discussed issues related to the application of the fair value measurement according to IFRS 13. Some issues related to the assumptions used by issuers when measuring non-financial assets, in particular whether the assumptions used were reasonable and whether they fell within the definition of observable or unobservable inputs. ESMA and European enforcers also discussed the judgements used by issuers in the determination of the notion of “highest and best use”. They concluded that particular attention should be given to these concepts and proper disclosures should be provided in this regard in the financial statements. Due to the recurrence of issues related to the measurement and disclosure of fair-value, notably for non-financial assets and liabilities, this topic was included in the European Common Enforcement Priorities for the 2015 annual financial statements.

Classifications of financial instruments (IAS 32 Financial Instruments: Presentation)

53. A number of issues related to the classification of financial instruments were debated in the EECS meetings. In this respect, ESMA recalls the recent IFRS IC discussions on this topic and the research project ongoing by the IASB on financial instruments with characteristics of equity. Therefore, where material and where there is no clear guidance in the applicable standards, issuers are reminded of the need for disclosures of the accounting policy applied when accounting for these types of instruments in



accordance with paragraphs 117 and 122 of IAS 1 *Presentation of Financial Statements*.

Reverse factoring

54. In 2015 ESMA and European enforcers discussed on several occasions the accounting treatment of reverse factoring arrangements. These are tripartite financing programmes involving a buyer in commercial trades, one or many suppliers, and a financial institution (the factor). Contrary to classic factoring where the supplier initiates the factoring process to get paid earlier, it is the buyer who requests the factor to pay some of its invoices/liabilities. Under the arrangement, the buyer signs an agreement with the factor, in which the factor agrees to purchase and pre-finance receivables of predetermined suppliers towards the buyer, and the buyer agrees to pay the amounts of these receivables to the factor at a predefined maturity date. The selected suppliers sign, at the same moment, a separate agreement with the factor relating to the sale of the receivables due from the buyer. The main questions relating to this issue were:
- a) whether the liability should be classified as a trade liability towards the supplier or a financing liability towards the financial institution;
 - b) how the cash-flows related to these transactions should be recognised and
 - c) what information should be disclosed in the notes.
55. Reverse factoring takes many different forms and the appropriate accounting treatment depends on the specific facts and circumstances. As a general principle, ESMA and European enforcers are of the view that, if the financial institution provides financing to issuers, the accounting might need to reflect this fact and appropriate disclosures are necessary to provide information that is relevant for an understanding of the financial statements.
56. As an example, where the supplier and the buyer are entities of the same group (intragroup transactions), and a third party financial institution is the factor, ESMA and European enforcers reached a consensus that the reverse factoring arrangement represents a financing transaction. Therefore, in the consolidated financial statements the liability towards the financial institution should be classified as a financing liability.

Concept of control (IFRS 10)

57. ESMA and European enforcers discussed several issues linked to the determination of control over an entity in the absence of a majority equity interest or a majority of voting rights in the investee, in line with IFRS 10. Some of the issues discussed were related to the determination of the relevant activities, the existence of protective rights when the control is underpinned by contractual arrangements, de facto control due to widely dispersed shareholdings or the relevance of the design and purpose of investees in the setup of special purpose entities. ESMA and European enforcers acknowledge that all these areas require the use of significant judgement and assumptions by issuers and remind them to provide relevant information that enable users to evaluate the nature of, and the risks associated with their interests in other entities as required by paragraph 9 of IFRS 12.

58. In addition, issuers are reminded to apply adequately the principles included in IFRS 10 if and when there are changes in the issuer's ownership interest. Where these changes do not result in loss of control they should be accounted for as equity transactions. Where these changes result in loss of control of the subsidiary, the impact of these changes shall be reflected in the statement of other comprehensive income.

3.5 ESMA enforcement database

59. In order to facilitate the sharing of enforcement decisions and experiences, ESMA established in 2005 an internal database to which European enforcers submit the decisions that they have taken as part of their national enforcement processes. In accordance with the Guidelines on enforcement, European enforcers should submit their enforcement decisions if these meet any of the submission criteria therein defined and European enforcers should consult the database before taking significant enforcement decisions and take into account the outcome of the discussions in EECS on similar issues. As of 31 December 2015, 860 decisions and 381 emerging issues were included in the EECS database.
60. ESMA regularly publishes enforcement decisions to contribute to the consistent application of IFRS. As of 31 December 2015, 197 decisions have been included in 18 publications, of which 17 enforcement decisions were included in the two extracts from the EECS database published in 2015 (ESMA/2015/1135⁸ and ESMA/2015/1776)⁹. ESMA plans to continue publishing enforcement decisions on a semi-annual basis. Published decisions are also included in the database of the International Organization of Securities Commissions (IOSCO).

3.6 Guidelines on Alternative Performance Measures (APMs)

61. On the basis of Article 16 of ESMA Regulation, ESMA published in June 2015 the final report and final Guidelines on APMs (ESMA/2015/1057)¹⁰ which aim to contribute to the publication of transparent, unbiased and comparable information on the financial performance of issuers in order to provide users with a comprehensive understanding of the issuers' performance. The Guidelines on APMs will apply to issuers or persons responsible for the prospectus disclosing APMs and to NCAs who should monitor whether issuers comply with them.
62. The Guidelines on APMs define what should be considered as an APM and set out the principles to be followed by issuers when they include APMs in prospectuses or regulated information documents published on or after 3 July 2016 (regulated information includes, among others, management report and disclosures to the market under the Market Abuse Regulation) and address their labelling, calculation, presentation and comparability. ESMA believes that adherence to the Guidelines on APMs will improve the transparency, reliability and comprehensibility of the APMs used.

⁸ Report, 17th Extract from the EECS's Database of Enforcement, 21 July 2015, ESMA, Paris, ESMA/2015/1135

⁹ Report, 18th Extract from the EECS's Database of Enforcement, 25 November 2015, ESMA, Paris, ESMA/2015/1776

¹⁰ Final Report, ESMA Guidelines on Alternative Performance Measures, 30 June 2015, ESMA, Paris, ESMA/2015/1057

63. In accordance with the Guidelines on APMS, issuers and persons responsible for the prospectus should make every effort to comply with these guidelines. The table of compliance by ESMA members with the Guidelines on APMS (ESMA/2015/1849)¹¹ identifies 16 countries which comply and 13 countries which intend to comply by the date of their application.

3.7 ESMA Opinion on contributions to Deposit Guarantee Schemes

64. ESMA became aware of divergence in the application of requirements of IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* / IFRIC 21 *Levies* and IAS 38 *Intangible Assets* related to ex-ante non-refundable cash contributions to Deposit Guarantee Schemes (DGS) for which the obligating event is identified at a single point in time. In order to address this divergence and to prevent it from becoming widespread, ESMA issued on 25 September 2015, in accordance with article 29 of ESMA Regulation, an opinion on the application of the IFRS requirements in relation to cash contributions to the DGS (ESMA/2015/1462).¹²
65. Based on the analysis of the relevant IFRS requirements and considering the nature of the contribution to DGS, ESMA concluded that as soon as the obligating event of a non-refundable cash contribution to a DGS is identified, the contribution needs to be recognised as an expense in full. Consequently, as IAS 34 *Interim Financial Reporting* has no specific accounting treatment for this type of expense, this expense needs to be recognised in full in the interim financial statements in the same interim period in which the obligating event has occurred. ESMA expects that this opinion will be taken into account in preparing, auditing and enforcing IFRS financial statements in Europe.

3.8 ESMA Statement on improving the quality of disclosures in the financial statements

66. On 27 October 2015 ESMA published a Statement on improving the quality of disclosures in the financial statements¹³ as a response to the concerns expressed by users of financial information about the overload and lack of completeness or relevance of the information provided in the financial statements. ESMA emphasised that improving disclosures is not only a matter of quantity but of quality of information. To this end, ESMA set out five disclosure principles that issuers should consider when preparing their reports: (a) focus on entity-specific disclosures and avoid boilerplate language; (b) provide relevant information in an easy and accessible way to understand the issuer's financial performance and position; (c) apply the principle of materiality to enhance the clarity and conciseness of financial statements; (d) promote readability of the financial statements; and (e) provide consistent information within annual reports.

¹¹ Guidelines compliance table, Guidelines on Alternative Performance Measures, 11 January 2016, ESMA, Paris, ESMA/2015/1849 REV

¹² Opinion, Application of the IFRS requirements in relation to the recognition of contributions to Deposit Guarantee Schemes in IFRS accounts, 25 September 2015, ESMA, Paris, 2015/ESMA/1462

¹³ Public Statement, Improving the quality of disclosures in the financial statements, 27 October 2015, ESMA, Paris, 2015/ESMA/1609

67. The statement considers that all parties involved in preparing financial statements should contribute to improving the quality of disclosures: (a) issuers should prepare disclosures which are relevant and material, making them as specific and readable as possible; (b) auditors should encourage issuers to focus on materiality and entity-specific information; and (c) European enforcers should promote best practices amongst issuers and reflect on their enforcement practices in the light of the Statement.

3.9 Main indicators of the IFRS enforcement activity at national level

68. In order to monitor the level of enforcement activity, ESMA collects statistics in relation to the number of examinations performed and the number of actions taken by European enforcers. At the European level, around 6,300 issuers listed on regulated markets¹⁴ prepare IFRS financial statements, among which 5,440 prepare consolidated IFRS financial statements and around 840 prepare only non-consolidated IFRS financial statements. Furthermore, 112 issuers prepare consolidated financial statements under third country GAAP deemed equivalent to IFRS.
69. In 2015, European enforcers performed unlimited scope examinations¹⁵ of the financial statements of 844 IFRS issuers¹⁶ covering around 13% (15% in 2014) of listed IFRS issuers in Europe. Thereof, 11% related to annual financial statements and 2% to interim financial statements or financial statements included in prospectuses. Further, the financial statements of 384 additional IFRS issuers were subject to focused examination, representing a coverage of another 6% of the listed IFRS issuers (9% in 2014). Altogether, in 2015, the financial statements of 20% (24% in 2014) of the entities listed on European regulated markets preparing financial statements according to IFRS were subject to examination by European enforcers.

Table 2: Number of issuers examined

	Number of issuers examined		
	Unlimited scope	Focused	Total
<i>Ex-post examinations</i>	772	317	1089
- thereof: Annual IFRS financial statements	684	241	925
- thereof: Interim IFRS financial statements only	88	76	164
<i>Ex-ante examinations</i>	72	67	139
<i>Total number of issuers preparing IFRS financial statements examined</i>	844	384	1228
Ex-post examinations of financial statements prepared using third country GAAP deemed equivalent to IFRS	6	3	9

¹⁴ This number and subsequent analysis do not include the IFRS financial statements entities not listed on regulated markets that are required to prepare IFRS financial statements on the basis of options in the IAS Regulation.

¹⁵ Definitions of unlimited scope examination and focused examinations are included in Appendix I to this report.

¹⁶ An issuer is counted once; if both annual and interim financial statements were examined, only annual financial statements are counted.

70. In 2015, the total number of ex-post examinations was 1,098 IFRS issuers (1,414 in 2014). The decrease is, among other reasons, explained by the implementation of the Guidelines on enforcement which led to an harmonised application of the definitions of ‘focused’ and ‘unlimited scope’ examinations (e.g. excluding the follow up of the previous year findings¹⁷ or formal examinations¹⁸) and by an increase in the number of ex-ante examinations 139 (119 in 2014) which require more resources from European enforcers in the control of compliance of all relevant documents (e.g. financial information included in prospectuses). Consequently, while the examination rate decreased by 4 percentage points (24% in 2014), the unlimited scope examination rate remained broadly stable (14% in 2015 vs. 15% in 2014).

Table 3: Number of issuers for which actions addressing departures were taken

	Annual IFRS Financial statements	Interim IFRS Financial statements	Total
Require a reissuance of the financial statements	16	19	35
Require a public corrective note	49	5	54 ¹⁹
Require a correction in future financial statements	171	13	184
Total number issuers for which actions were taken	236	37	273

71. ESMA provides information by clusters of countries in order to reflect the respective size of European markets. Clusters have been determined on the basis of the number of issuers listed on regulated markets in each jurisdiction and which prepare financial statements in accordance with IFRS.

Table 4: Number of IFRS issuers per country

Number of IFRS issuers	Countries
1-99 issuers	Cyprus, Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Malta, Portugal, Romania, Slovakia, Slovenia
100-249 issuers	Austria, Belgium, Croatia, Denmark, Finland, Greece, Ireland, Luxembourg, Netherlands, Spain
250-499 issuers	Bulgaria, Italy, Norway, Poland, Sweden
>500 issuers	France, Germany, United Kingdom,

¹⁷ Follow ups (control by the enforcer that the issuer published a corrective note/or amended the next financial statements following an action taken or a recommendation made) undertaken in 2015 by European enforcers.

¹⁸ Examinations on whether the issuers comply with all the necessary elements defined by the Transparency directive on period reporting (e.g. if the annual report includes all the elements required)

¹⁹ In addition, 23 corrective notes (thereof 18 related to annual financial statements and 5 related to interim financial statements) were published by issuers in response to the initial communication with the enforcer before formal action could have been taken.

Table 5: Number of examinations and actions for IFRS issuers in 2015

	Number of issuers per cluster	Number of issuers subject to unlimited scope examinations	Unlimited scope examination rate	Total number of issuers subject to examinations	Examination rate ²⁰	Total number of issuers subject to ex-post examinations	Total number of issuers for which actions were taken	Sample action rate ²¹
Countries with <100 issuers	547	100	18%	139	25%	121	34	28%
Countries with 100-249 issuers	1549	253	16%	453	29%	373	97	26%
Countries with 250-499 issuers	1636	221	14%	340	21%	328	42	13%
Countries with >500 issuers	2551	270	11%	296	12%	276	100	36%
Total	6283	844	13%	1228	20%	1098	273	25%

72. Despite the decrease in the total number of examinations and consequently on the total number of actions, European enforcers have taken actions against issuers in around 25% of the examinations performed, an increased ratio of infringements when compared to the previous year (22% in 2014).
73. Furthermore, in view of the sample action rate of 25% ESMA considers that there is still room for improvement in the quality of IFRS financial reporting in Europe. However, extrapolating the sample action rate to the entire population of issuers listed on regulated markets in Europe would not be appropriate as the selection methods used by European enforcers are based, for a significant part, on an analysis of risks. Therefore, entities selected for examination will not be fully representative of the entire population of listed entities.
74. The coverage of unlimited scope and focused examinations varies significantly from one country to another because of the diversity in the number of issuers per jurisdiction, the level of complexity of their financial statements, the availability of enforcer's human resources and the importance of the financial market. Furthermore, the number of enforcement actions taken in individual jurisdictions varies on the basis of the complexity, number and type of issuers that have securities admitted to trading on a regulated market and the legal framework in which the national enforcer operates in these specific jurisdictions. A short description of the 'unlimited scope' examination and 'focused' examinations is included in the Appendix I to this report.
75. ESMA performed an analysis of the accounting areas addressed by the actions taken by European enforcers during 2015. An enforcement action related to a single issuer might have contained multiple areas of concern identified. Out of all areas, European enforcers requested corrections by the issuance of corrective notes or reissuance of

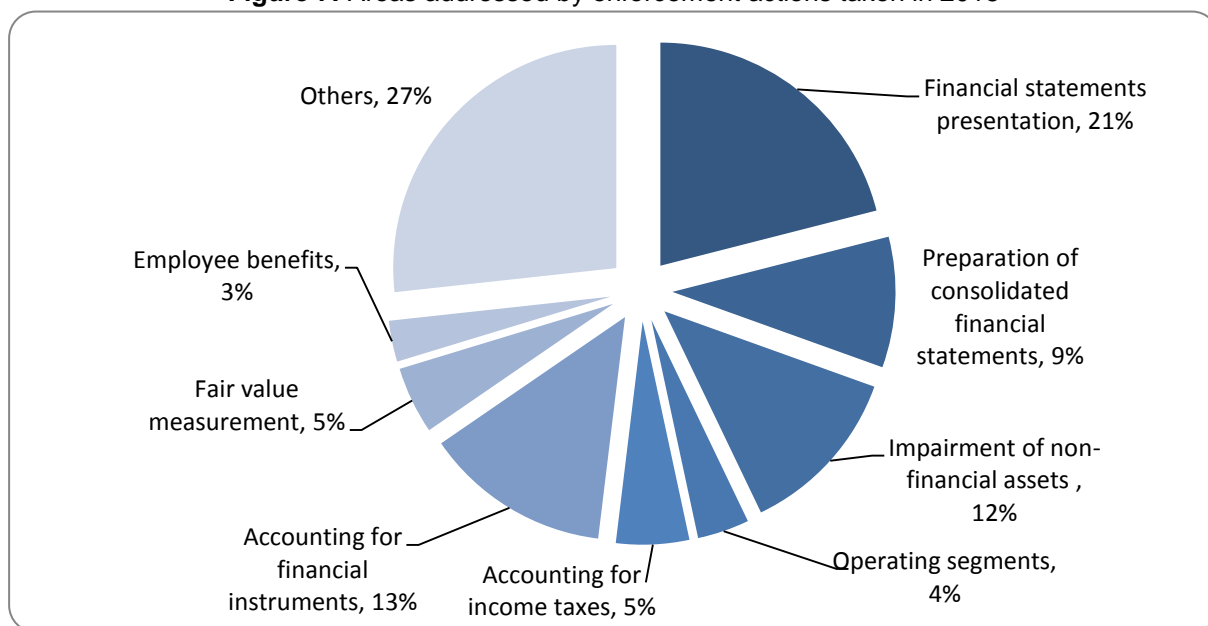
²⁰ Number of issuers examined divided by total number of issuers.

²¹ Number of issuers for which actions were taken divided by number of issuers subject to ex-post examination.

financial statements in 32% of cases and corrections in future financial statements in 68% of cases.

76. When deciding to require a correction in future financial statements (rather than an action leading to information provided immediately to the market), enforcers consider the timing of the decision (e.g. time to publication of the next financial statements), its nature and the surrounding circumstances, such as the assessment whether the market is sufficiently informed at the moment the decision is taken. Areas addressed by these enforcement actions are reported in the diagram below.

Figure 7: Areas addressed by enforcement actions taken in 2015



77. ESMA notes that the areas where more infringements were acted upon by European enforcers remained consistent when comparing with 2014. Actions of significant importance related to financial statements presentation and fair value measurement. Considering these two areas represent approximately 26% of all the issues addressed by enforcement actions taken by European enforcers in 2015, ESMA decided to include these particular topics in the European common enforcement priorities for the 2015 year-end. In addition, ESMA and European enforcers will continue to focus on the compliance with the IFRS requirements, such as impairment of non-financial assets and recognition and measurement of deferred tax assets, taking into account the current market conditions.
78. Among the areas addressed by issuance of corrective notes, 23% (20% in 2014) related to the accounting for financial instruments, 12% (8% in 2014) to the financial statements presentation and 14% (15% in 2014) to the preparation of consolidated financial statements (e.g. principles of consolidation and joint arrangements).
79. Among the areas addressed by corrections in future financial statements, 22% (25% in 2014) related to financial statements presentation, 14% (12% on 2014) to impairment of non-financial assets and 12% (13% in 2014) to accounting for financial instruments.



80. European enforcers decide to require certain type of action on the basis of the nature of the individual case and its surrounding circumstances. In those cases where the issue identified related to presentation or disclosure rather than recognition or measurement, enforcers often decide to require correction in future financial statements.

3.10 Work Programme for 2016

81. In accordance with the ESMA Supervisory Convergence Work Programme for 2016, ESMA will pursue its regular activities in the area of corporate reporting in order to ensure that financial information published by issuers complies with IFRS and contributes to the transparency of information relevant to the decision making process of investors. Those include the setup of the 2016 European Common Enforcement Priorities as well as the coordination of emerging issues and decisions.
82. In addition, ESMA plans to issue two statements to inform the market and encourage listed companies to provide timely and relevant information on the expected impact of the new financial reporting standards once the endorsement timeline is clarified. Notably on:
- a) IFRS 9 is expected to have a major impact on the financial statements of financial institutions, mainly because it will determine a material increase in the impairment losses, with effects on the performance, and require major changes in IT systems.
 - b) IFRS 15 is expected to have an impact on all companies because it refers to the recognition, measurement and disclosure of the revenue of all listed issuers.
83. To further enhance the effectiveness of the supervisory process, the following activities will also be conducted:
- a) A thematic study on the implementation of IFRS 10, IFRS 11 or IFRS 13 which should contribute to the post implementation review conducted by the IASB;
 - b) Pursue ongoing work on the preparation of a supervisory briefing on the supervision of disclosures in the financial statements, in order to enhance financial reporting, make it more relevant, and where possible accompany it with elements for reducing the overload;
 - c) A supervisory briefing on the principles included in the Guidelines on APMs to answer questions raised by enforcers on its implementation, especially as they apply to financial information published under three different acts (Transparency Directive, Prospectus Directive and Market Abuse Regulation).
84. In 2016 ESMA will begin a peer review on some of the Guidelines on enforcement in order to assess compliance by European enforcers with these guidelines, identify good practices and potential areas for improvement. The likely focus of the review will be on Guideline 2 (ensuring the effectiveness of the enforcement of financial information), on Guideline 5 (risk-based approach and sampling) and possibly on Guideline 6 (examination procedures).

4 Single rule book

4.2 Contribution to accounting standard setting

4.2.1 Contribution to the European endorsement process

85. ESMA increased its involvement within EFRAG by actively participating as official observer in the activities of the restructured EFRAG Board, TEG and the EFRAG working groups where it presented its views on enforceability of standards and shared experience of European enforcers on the application of IFRS in Europe. Furthermore, ESMA continued to actively contribute to the European endorsement process by participating as an official observer in the ARC.
86. In 2015, ESMA provided 13 comment letters to EFRAG, commenting on the draft EFRAG comment letters, draft endorsement advices and other pieces of work open for consultation. Through this participation, ESMA contributed to the presentation of the European view to the IASB. Notably, ESMA contributed to the endorsement process by providing specific input to the draft endorsement advice on IFRS 9 particularly in the area of investor protection and financial stability²² and on the interaction between IFRS 9 and the accounting for issued insurance contracts in the scope of IFRS 4.²³

4.2.2 Cooperation with the IASB

87. Considering its coordinating role of the enforcement activities within the largest area using IFRS and the overall goal of setting up high quality financial reporting standards, ESMA and the IFRS Foundation signed in 2014 a Statement of Protocols to serve as basis for future co-operation in areas of mutual interest. ESMA participates as a member in the IFRS Advisory Council, the formal advisory body to the Trustees of the IFRS Foundation. The IFRS Advisory Council meets regularly to give its opinion on the technical agenda, project priorities and strategic direction.
88. An ESMA permanent working group, the IFRS Project Group, composed of IFRS experts from 12 European enforcers and ESMA staff, meets regularly to discuss major projects issued by the IFRS Foundation, the IASB as well as topics discussed by the IFRS IC. In 2015, ESMA provided 11 comment letters to almost all Exposure Drafts and other pieces of work open for consultation by the IASB and the IFRS Foundation, including the IASB's Exposure Draft: Conceptual Framework for Financial Reporting,²⁴ 2015 IASB's Agenda Consultation²⁵ and the Trustees' Review of Structure and Effectiveness of the IFRS Foundation.²⁶

²² Letter, ESMA's Response to EFRAG's Draft Endorsement Advice on IFRS 9, 29 June 2015, ESMA, Paris, ESMA/2015/1056

²³ Letter, ESMA's Response to EFRAG Draft Letter to the European Commission on Adoption of IFRS 9, 20 November 2015, ESMA/2015/1749

²⁴ Letter, ESMA's Response to the IASB's Exposure Drafts Conceptual Framework for Financial Reporting and Updating References to the Conceptual Framework: Proposed amendments to IFRS 2, IFRS 3, IFRS 4, IFRS 6, IAS 1, IAS 8, IAS 34, SIC-27 and SIC-32, 17 November 2015, ESMA, Paris, ESMA/2015/1733

²⁵ Letter, ESMA's Response to the IASB's Request for Views: 2015 Agenda Consultation, 1 December 2015, ESMA, Paris, ESMA/2015/1740

²⁶ Letter, ESMA's Response to Trustees' Review of Structure and Effectiveness: Issues for the Review, 19 November 2015, ESMA, Paris, ESMA/2015/1738

89. In 2015, EECS met three times with IFRS IC representatives in order to discuss complex issues identified by European enforcers for which there was no specific IFRS guidance or where widely diverging interpretations appeared to exist. Among others, the following accounting subjects were discussed:
- a) reverse factoring arrangements and the accounting treatment of intragroup transactions for the identification of financing transactions in comparison with trade payables;
 - b) presentation of gains from sales of intangibles;
 - c) implementation issues related to IFRS 10: control notion, definition of investment entities;
 - d) classification of issued financial instruments.
90. In those meetings, ESMA provided an overview of the relevant practices applied by issuers in the EU and European enforcers had the opportunity to provide the IFRS IC with feedback on the application of the standards and the degree of uncertainty in their interpretation.
91. The following issues on the application of IFRS or interpretations of the IFRS IC were identified and submitted:
- a) measurement of minimum funding requirement in pension asset ceiling test (application of IFRIC Interpretation 14 The Limit on a Defined Benefit Asset, Minimum Funding Requirements and their Interaction (ESMA/2015/419),²⁷
 - b) tax effects from interest payments on equity instruments in accordance with IAS 12 (ESMA/2015/602),²⁸ and
 - c) the application of the IAS 20 Accounting for Government Grants and Disclosure of Government Assistance to recoverable cash-advances (ESMA/2015/1258).²⁹
92. Finally, while not an official observer to the IFRS IC, ESMA contributed to the IFRS IC due process by submitting 3 comment letters for the discussion of some tentative agenda decisions.
93. Two additional bilateral meetings were organised with the IASB in which ESMA provided IASB Board members and staff with an overview of recent enforcement activities and discussed matters in relation to enforceability of newly developed standards, implementation issues identified as part of the reviews of accounting practices undertaken by ESMA, due process in place to develop the IFRS taxonomy and the interaction between the disclosure initiative project and the ESMA regulatory work.

²⁷ Letter, Agenda Item Request: Measurement of minimum funding requirement in pension asset ceiling test, 23 February 2015, ESMA, Paris, ESMA/2015/419

²⁸ Letter, Agenda Item Request: Tax effects from interest payments on equity Instruments, 3 June 2015, ESMA, Paris, ESMA/2015/911

²⁹ Letter, Agenda Item Request: Recoverable cash advances, 17 August 2015, ESMA, Paris, ESMA/2015/1258

4.3 Activities related to the amended Transparency Directive

94. The amended Transparency Directive requires ESMA to develop and submit to the EC RTSs setting technical requirements regarding the access to regulated information. In September 2015 ESMA published the Final Report on the Draft RTSs on European Electronic Access Point (EEAP) (ESMA/2015/1460)³⁰ and submitted these to the European Commission for endorsement. The RTSs include the technical requirements for the EEAP, the search criteria, the infrastructure, as well as the rationale for its introduction. In accordance with the amended Transparency Directive, the EEAP should be operating after 1 January 2018.
95. ESMA also pursued its work for the development of draft RTSs to specify the European Single Electronic Reporting Format (ESEF) for the preparation of annual financial reports with effect from 1 January 2020. On 25 September 2015 ESMA published a Consultation Paper on the Draft RTS on ESEF (ESMA/2015/1463)³¹. In the Consultation Paper, ESMA proposed requiring issuers to file and publish their annual financial reports in Portable Document Format (PDF), as it is a format already accepted or required in all EU jurisdictions and admissible in legal proceedings. Based on the results of the preliminary cost-benefit analysis, ESMA suggested requiring issuers to make public their consolidated annual IFRS financial statements in either the Extensible Business Reporting Language (XBRL) or the Inline Extensible Business Reporting Language (iXBRL) format from 1 January 2020. The amended Transparency Directive requires ESMA to submit the RTS on the ESEF to the EC before the end of 2016.
96. With a view to contributing towards building a common supervisory culture and consistent supervisory practices ESMA conducted a fact finding exercise on the application of selected provisions of the amended Transparency Directive. To this end ESMA updated and published the Questions and Answers document on Transparency Directive with the aim of clarifying the application of the amended transparency regime to market participants and enhance the level of harmonisation (ESMA/2015/1595).³²
97. In addition, ESMA has also developed (a) the format and content of a standard form for the disclosure of home Member State to ensure that all relevant competent authorities receive the same set of information and reduce the administrative burdens for issuers which do not have to submit multiple forms with different information requirements (ESMA 2015/1596);³³ and (b) a common supervisory approach to co-ordinate the activities of NCAs in cases where cross-borders issues arise in the application of the Transparency Directive requirements.

³⁰ Final Report, Draft Regulatory Technical Standards on European Electronic Access Point (EEAP), 25 September 2015, ESMA, Paris, ESMA/2015/1460

³¹ Consultation Paper, Consultation Paper on the Regulatory Technical Standards on the European Single Electronic Format (ESEF), 25 September 2015, ESMA, Paris, 2015/ESMA/1463

³² Questions and answers, Transparency Directive (2004/109/EC), 22 October 2015, ESMA, Paris, ESMA/2015/1595

³³ Standard form for the notification of Home Member State, 22 October 2015, ESMA, Paris, ESMA/2015/1596

4.4 Activities related to the Audit Regulation

98. From 17 June 2016, ESMA will be a member without voting rights in the Committee of the European Audit Oversight Bodies (CEAOB) and will chair a permanent sub-group for the purpose of carrying out technical assessment of public oversight systems of third countries and facilitating the international cooperation between Member States and third countries in this area. In 2015, ESMA re-designed its permanent working group (Audit Working Group) in order to prepare for its future responsibilities.
99. Based on the 2016 ESMA work programme (ESMA/2015/1475),³⁴ ESMA will carry out activities related to two main work streams (a) completing the single rule book: monitoring developments with impact on financial reporting and auditing in particular, in international auditing standards (ISAs) and international ethics standards and (b) promoting supervisory convergence: monitoring guidelines on communication between competent authorities and auditors, identifying and discussing audit matters which might affect the work performed by securities regulators when examining financial information provided by issuers listed on regulated markets.

4.5 European and international cooperation

100. With a growing number of jurisdictions adopting IFRS, ESMA maintains regular contact with other IFRS enforcers across the world with the aim of exchanging practical experience on IFRS enforcement.
101. As part of the common objectives of promoting high quality and consistent application of financial reporting standards and avoiding conflicting regulatory decisions on the application of both IFRS and US GAAP, ESMA and the United States Securities and Exchange Commission (US SEC) cooperate and have regular dialogue since 2006. Areas of common interest or concern are: the application of converged accounting standards, enforcement related issues, accounting areas of concern in relation to foreign private issuers and other matters related to issuers or market behaviour.

³⁴ 2016 Work Programme, 29 September 2015, ESMA, Paris, ESMA/2015/1475

Appendix I – Description of the enforcement process

1. ESMA is responsible for the promotion of an effective and consistent application of the securities and markets legislation with respect to financial reporting, it aims to foster supervisory convergence in Europe and thereby reduce regulatory arbitrage. Converged enforcement practices contribute not only to the integrity, efficiency and orderly functioning of the EU Single Market but can also have positive impact on financial stability.

1 Guidelines on enforcement of financial information

2. On the basis of Article 16 of ESMA Regulation, in 2014, ESMA published the Guidelines on enforcement of financial information (ESMA/2014/1293). These became effective from 29 December 2014 and aim at strengthening the supervisory convergence in the enforcement practices amongst the competent authorities designated in each Member State and/or in some cases by other entities which have received a delegation for this purpose.³⁵
3. Compliance with the Guidelines on enforcement implies that all competent authorities confirm in writing to ESMA whether they (a) comply; (b) intend to comply; or (c) do not comply or do not intend to comply with the Guidelines on enforcement. ESMA published a compliance table on its website (ESMA/2015/203)³⁶ which identifies 21 countries which comply, 3 countries which intend to comply by a particular date and 6 countries which do not comply and do not intend to comply with part of the Guidelines on enforcement because of conflicts with existing national legislation or lack of resources.
4. The Guidelines on enforcement define the objectives of enforcement, the characteristics of European enforcers and set out the principles to be followed throughout the enforcement process, such as selection methods, examination procedures and enforcement actions. They also strengthen the convergence of enforcement activities at European level by codifying European common enforcement priorities and including requirements for coordination of views on accounting matters prior to taking significant enforcement decisions at national level.
5. The scope of enforcement of financial information of companies traded on the regulated markets, as defined under the Transparency Directive, covers all reporting frameworks applicable to listed issuers including: IFRS as endorsed by the EU for consolidated financial statements, IFRS as endorsed by the EU or national Generally Accepted Accounting Principles (GAAPs) when applied to non-consolidated financial statements and third country accounting standards for non-European issuers, if deemed equivalent to IFRS as endorsed in the EU. However, the main areas of focus for ESMA are in relation to issues derived from the requirements of the Transparency Directive in relation to the application of the IAS Regulation.

³⁵ List of European enforcers is included in Appendix II.

³⁶ [Guidelines compliance table – Guidelines on the enforcement of financial information, 19 January, ESMA, Paris, ESMA/2015/203 REV](#)

6. ESMA activities on supervisory convergence of enforcement are carried out mainly through the European enforcers Co-ordination Sessions (EECS), a forum of 41 European enforcers from 30 EEA Member States who have responsibilities in the area of supervision and enforcement of financial information. With responsibility for co-ordination of supervision of approximately 6 300 issuers listed on European regulated markets preparing IFRS financial statements, EECS currently constitutes the largest regional enforcers' network with supervision responsibilities for IFRS.
7. According to Guideline 10, through EECS, European enforcers discuss and share their experience on the application and enforcement of IFRS. In particular, they discuss enforcement cases which fulfil the submission criterion set out in the Guidelines on enforcement before or after decisions are taken in order to promote a consistent approach in the application of IFRS. When taking an enforcement decision, European enforcers should take in account the outcome of the discussion of ex-ante cases in EECS. In addition, EECS produces technical advice on the issuance of ESMA Statements and/or opinions on accounting matters which deserve specific focus. It also reviews accounting practices applied by European issuers to enable ESMA to monitor market developments and changes in those practices.
8. As a result of the enforcement coordination, ESMA and European enforcers identify areas where a lack of guidance from the standards or divergent interpretations of the IFRS are observed. Such matters are subsequently referred to the IASB or the IFRS IC, as appropriate.

2 Key definitions and Concepts

9. Enforcement activity refers to examining compliance of financial information with the applicable financial reporting framework as well as taking appropriate measures when infringements are identified.
10. European enforcers identify the most effective way for enforcement of financial information. The enforcer's selection of issuers for examination is based on a mixed model whereby a risk based approach is combined with a sampling and/or a rotation. A risk based approach considers the risk of a misstatement as well as the impact of a misstatement on the financial markets. Enforcers can either use unlimited scope examination or a combination of unlimited scope and focused examinations of financial information of issuers selected for enforcement.
11. Unlimited scope examination entails the evaluation of the entire content of the financial information, while focused examination refer to the evaluation of pre-defined issues in the financial information and the assessment of whether this information is compliant with the relevant financial reporting framework. However, the depth and scope of an examination procedure cannot be equated with those of an audit of financial statements.

12. Whenever a material misstatement is detected, European enforcers should, in a timely manner, take at least one of the following actions:
 - a) require a reissuance of the financial statements - issuance of revised financial statements which are subject to a new audit opinion;
 - b) require a corrective note - making public either by the issuer or the enforcer a material misstatement with respect to particular item(s) included in already published financial information and the corrected information; or
 - c) require a correction in future financial statements with restatement of comparatives, where relevant - the issuer adopts an acceptable treatment in the next accounts and corrects the prior year by restating the comparative amounts or otherwise includes additional disclosures not requiring the restatement of comparatives.
13. When deciding between the type of action to be applied, European enforcers should consider that the final objective is that investors are provided with the best possible information and an assessment should be made whether the original financial statements and a corrective note provide users with sufficient clarity for taking decisions or whether a reissuance of the financial statements is more appropriate. Other factors should also be considered, namely timing, nature of the decision and the surrounding circumstances.
14. Furthermore, European enforcers seek to improve the quality of future financial statements, by engaging in activities designed to provide helpful guidance to issuers, such as defining enforcement priorities and/or pre-clearance³⁷ procedure.

³⁷ In some jurisdictions, issuers may approach a local enforcer before finalising their financial statements and seek a formal advice on whether a proposed accounting treatment is compliant with IFRS.

Appendix II – List of European enforcers

Member State	European enforcer	Abbreviation
Austria	Financial Market Authority Austrian Financial Reporting Enforcement Panel	FMA AFREP
Belgium	Financial Services and Markets Authority	FSMA
Bulgaria	Financial Supervision Commission	FSC
Croatia	Croatian Financial Services Supervisory Agency Croatian National Bank Ministry of Finance -Tax Administration	HANFA HNB RHMF
Cyprus	Cyprus Securities and Exchange Commission	CySEC
Czech Republic	Czech National Bank	CNB
Denmark	Danish Financial Services Authority Danish Business Authority	Danish FSA DBA
Estonia	Estonian Financial Supervision Authority	EFSA
Finland	Finnish Financial Supervisory Authority	FIN-FSA
France	Financial Markets Authority	AMF
Germany	German Federal Financial Supervisory Authority Financial Reporting Enforcement Panel	BaFin FREP
Greece	Hellenic Capital Market Commission	HCMC
Hungary	The Central Bank of Hungary	MNB
Ireland	Central Bank of Ireland ³⁸ Irish Auditing and Accounting Supervisory Authority	CBI IAASA
Iceland	Financial Supervisory Authority	FME
Italy	Companies and Securities National Commission	Consob
Latvia	Financial and Capital Markets Commission	FCMC
Lithuania	Bank of Lithuania	LB
Luxembourg	Financial Markets Supervisory Commission	CSSF
Malta	Malta Financial Services Authority	MFSA
Netherlands	Netherlands Authority for the Financial Markets	AFM
Norway	Norway Financial Supervisory Authority	NFSA
Poland	Polish Financial Supervision Authority	PFSA
Portugal	Securities National Commission Bank of Portugal Insurance and Pension Funds Supervisory Authority	CMVM BP IPFSA
Romania	Financial Supervisory Authority	ASF
Slovakia	National Bank of Slovakia	NBS
Slovenia	Securities Market Agency	SMA
Spain	Spanish Securities Market Commission	CNMV
Sweden	Swedish Financial Supervisory Authority The Nordic Growth Market Nasdaq OMX Stockholm AB	Swedish FSA NGM AB Nasdaq Stockholm
United Kingdom	Financial Conduct Authority Financial Reporting Council	FCA FRC

³⁸ While CBI is the national administrative competent authority represented in ESMA Board of Supervisors, IAASA was designated as the sole competent authority for carrying out the obligations in the Transparency Directive.