

Association of German Banks | P.O. Box 040307 | 10062 Berlin | Germany

Mr Steven Maijoor
Chairman
European Securities and Markets Authority
ESMA
103, rue de Grenelle
75007 PARIS
FRANKREICH

Silvia Schütte
Director
Telephone: +49 30 1663-2180
Fax: +49 30 1663-2199
silvia.schuette@bdb.de

Consultation Paper: ESMA Guidelines on enforcement of financial information

8 October 2013

Dear Mr Maijoor,

Ref. BdB: BI.10
Prepared by Sü/Gk

Thank you for giving us the opportunity to comment on the *ESMA Guidelines on enforcement of financial information*, and we are now pleased to do so as follows:

We believe it makes sense to merge the existing CESR Standards No. 1 and 2 into a single ESMA standard. The principles set out in CESR Standards No. 1 and 2 have proved their worth and deliver a sound framework for the work of enforcers in the EU member states. We welcome it that the long-standing approach of leaving enforcement to the individual member states is to be retained. At the same time, the EECS provide a good platform for promoting both an exchange of information and coordination between national enforcers.

In Germany, this approach has worked extremely well in practice. The German enforcement system is highly regarded in the marketplace and the German enforcer is widely seen as highly competent and effective.

We should like to draw attention particularly to the following points in the consultation paper:

Enforcement vs. standard-setting

We concur with ESMA that a clear dividing line between standard-setting and enforcement needs to be drawn and respected (cf. page 13, paragraph 41). Setting and interpreting IFRS is the job of the IASB and the IFRS Interpretations Committee, whilst enforcement is aimed at ensuring that the standards are applied uniformly. This

Association of German Banks
Burgstraße 28
10178 Berlin | Germany
Telephone: +49 30 1663-0
Fax: +49 30 1663-1399
www.bankenverband.de
USt.-IdNr DE201591882

dividing line has not always been respected in the past. Some publications by ESMA were interpreted by preparers and auditors not as enforcement activity but as standard-setting. That goes, for instance, for the ESMA announcements on the accounting treatment of Greek government bonds and, in particular, for the ESMA public statement on the *Treatment of Forbearance Practices in IFRS Financial Statements of Financial Institutions*. The latter caused considerable irritation among preparers and auditors. Preparation of the annual financial statements takes place on a statutory basis that stipulates either the application of IFRS or the application of national accounting standards. How the ESMA announcements fit into this regulatory landscape remains unclear. To establish a clear understanding in this respect, we believe that prior consultation and an intensive dialogue with the different groups of stakeholders (standard-setters, preparers, auditors, etc.) would be helpful. Good communication ahead of publication of a report and a strict division of responsibilities between standard-setters and enforcers are, in our view, a key step towards creating a consistent and clear-cut basis for the preparation of financial statements.

Examination procedures – full review

The use of the term "full review" (page 31, paragraph 53 ff.) in the present consultation paper is problematic, in our view. It is usually taken to mean the full audit of the annual financial statements by the auditor. We assume that in this context "full review" means examinations based on random sampling, as opposed to an examination with cause, and suggest replacing the terms "full review" and "partial review" with "focused review" and "non-focused" review.

Discussion of emerging issues – role of EECS

The wording of paragraph 74 suggests that practically all enforcement decisions are in future first to be discussed in EECS. This would radically change the role of EECS. As we understand it, EECS are a forum for coordinating enforcement decisions of relevance to all involved member states and for discussing issues on which accounting practices have been seen to diverge. We see no added value in the EECS discussing highly specialised issues relating to specific sectors or countries. This would significantly slow down national enforcement procedures and lead to a loss in quality.

Yours sincerely,



Dirk Jäger
Member of the Management Board



Silvia Schütte
Director