



Association pour la participation des
entreprises françaises à l'harmonisation
comptable internationale



10 May 2016

Ref: PUBLIC CONSULTATION ON THE OPERATIONS OF THE EUROPEAN SUPERVISORY AUTHORITIES (the Consultation)

We are pleased to contribute to this consultation and more specifically to section 8 about financial reporting.

The consultation first states that “ESMA currently plays a limited role in the field of financial reporting (accounting and auditing)”, and mentions several areas for which an increased role for the European regulator is proposed: the enforcement and adoption processes of IFRS standards and audit.

First of all, we believe that it is much healthier to respect the principle of the separation of responsibilities and to avoid an extension of ESA powers which would overlap with other stakeholder’s responsibilities (such as those of IFRIC for example in terms of interpretation of IFRS). Furthermore, we do not see how synergies between the enforcement of accounting and audit standards could be strengthened.

Today, respective roles in the area of financial reporting are well defined and circumscribed:

- IASB is in charge of developing international standards, independently, under the supervision of the trustees
- EFRAG is in charge of providing advice for the European endorsement process whose final decision rests with the Commission
- Entities are responsible for the preparation of financial reporting in compliance with these standards
- Auditors are responsible for auditing these accounts

Although these actors should work together to “improve investor protection and promote stable, orderly financial markets”, this should not mean that all areas of financial reporting should be under the responsibility of the same authority.

Enforcement of accounting standards

While we fully support the objective that IFRS standards should be applied consistently by all adopters, and we understand the necessity of regulators’ exchanges of views to align

practices, we would like to highlight the thin line which exists between such elements and the *de facto* establishment of a European interpretation body which we do not think belongs to the regulator's role.

Indeed, we believe that when ESMA publishes extracts from its "database of enforcement", there is a real risk that these decisions could be considered as interpretations, in a manner similar to that in which rejection notices from the IFRS Interpretations Committee (IFRS-IC), which have no real status in the IFRS hierarchy, but could be viewed as decisions of the standard-setter and impose themselves on the preparer. The IFRS-IC is conscious of this problem and has therefore clarified the status of the rejection notice and modified the related due process.

We consider that ESMA does not and should not have a role of interpreter of accounting/financial reporting standards. Thus, in our view, the regulator must be careful not to establish a public database on its assessment of the application of IFRS.

For that reason, we have already called upon the ESMA to pay scrupulous attention to the decisions held in the database and the way they are communicated, in order to ensure that these do not acquire the status of an applicable interpretation of the standards that preparers and their auditors would have to comply with, thus leaving less room for the necessary use of judgment by preparers and auditors in their assessment of the appropriate accounting treatment.

In conclusion, we believe that ESMA should not be given the role of a European interpretation authority but could help in identifying potential implementation divergences among European entities and bringing the issues to IFRIC if necessary.

Adoption process

- The proposal has already been studied and rejected

We note that the possibility of transferring the responsibilities of EFRAG to ESMA was already assessed and dismissed in the Maystadt Report published in October 2013. This option encountered "a massive opposition" from stakeholders, for several reasons, all of which remain valid today.

That is the reason why that report recommended instead to transform EFRAG and to strengthen ESMA's role in the European process by making it a member of the Board of the new EFRAG. However, ESMA refused this mandate and is at present only an observer of the Board.

- The reform of EFRAG is too recent to be called into question already

Three years later, EFRAG's reform has been successfully completed with a new governance structure effective since 31 October 2014, the appointment of the EFRAG Board and the

EFRAG TEG taking up its advisory role. Moreover, in February 2017, European Parliament representatives reached a provisional agreement on extending the EU's funding of EFRAG for the period 2017 to 2020.

We therefore see no reason to challenge the new EFRAG governance structure and the other improvements made since the Maystadt report. Moreover, we think that a consultation on this issue at present is premature, in view of the short period since the inception of the structure, and invalid, since it does not ask the preliminary but essential question about the role of EFRAG and its effectiveness.

- **The proposed solutions would be counterproductive**

The consultation paper suggests that ESMA, or more largely the ESAs, the ECB or the ESRB, could play an advisory role in the endorsement process, in a way which is not clearly laid out. It seems that it could be either as a complement to EFRAG's work, in adding opinions on the criteria analysis, or instead of EFRAG, in assigning the endorsement role to ESMA.

The first option would not promote the main objective sought by the European Union in the accounting reform of 2013-2014, which was to enable Europe to speak with one voice in the international debates. Should ESMA or the other ESA consider that they have elements to bring to the debate, this must be done upstream, within the scope of the work of EFRAG.

The second option, i.e replacing EFRAG by ESMA, which would represent a radical shift from the conclusions of Maystadt, raises several difficulties: the endorsement process requires a far broader approach than the supervisory one, and we wonder how would ESMA organise this in a way more efficient than that already applied by EFRAG?

Indeed, as a matter of principle, we are convinced that a single organism, even a European authority, should not be responsible for all areas covered by financial reporting: one cannot be both judge and jury.

Potential improvements to the current process

Notwithstanding the above, we do think that there are improvements that could be made to the current process:

1. Impact assessments

We are of the view that impact assessments should take place much earlier in the adoption process, in order to:

- a) Be able to inform the decisions on the content of the standard, and
- b) Not to cause delay in the adoption process and potentially create significant doubt about the ultimate outcome of the process.

Of course, it is necessary to find a good balance between having a preliminary standard which is sufficiently advanced to provide a solid base for the impact assessment and one which can still be modified if necessary for the results of the assessment.

Impact assessments are complex to perform and require substantial amounts of resource to be devoted to them. In this respect, the EFRAG reform should be examined over a long period in order to judge whether improvements have been made to the process.

2. Criteria

If the ESAs have suggestions for improvements to the way the criteria of financial stability are applied and how the impact assessments are carried out, it would be very useful for these to be taken into account. However, we do not think that this should call into question the current processes.

The criterion of the European Public Good should be clarified and the means available to EFRAG to assess this criterion should be strengthened. This could encompass the possibility for EFRAG to solicit the ESAs within the endorsement process or in at an earlier stage of the endorsement process for QIS for example.

3. Duration of the work of ARC after the publication of EFRAG's advice

WE note, as of today, three IFRS amendments for which the mandatory adoption date in Europe could be later than the effective date set by the IASB. We take as an example the amendment to IAS 7 developed in response to a strong demand from users of general financial statements for better analysis of the components of financing. The effective date set by the IASB for this was 1 January 2017 and EFRAG issued positive endorsement advice on 6 June 2016. However, the ARC's vote on the amendment is expected only in the second quarter of 2017, almost a year after EFRAG's advice and potentially too late for the publication of half-year results for 2017. The preparation of financial statements is a complex process for entities, and it is both disruptive and potentially damaging for the entity not to know with certainty what standards need to be applied at the close.

We therefore think that the process of examination of amendments to the body of standards by ARC should commence much earlier in the overall process.

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