

ESA-2014-001

Michel Barnier
European Commissioner
Internal Market and Services
European Commission
B- 1049 Brussels
Belgium

20 January 2014

Maystadt Report – *Should IFRS standards be more European?*

Dear Commissioner Barnier

The three European Supervisory Authorities (ESAs) welcomed the mission given to Philippe Maystadt to examine ways of reinforcing the EU's contribution to the International Accounting Standards Board (IASB) and enhancing the governance of the European bodies involved in the development of International Financial Reporting Standards (IFRS). The final report "*Should IFRS standards be more European?*" contains elements of significant importance for the future of IFRSs in the European Union (EU).

The Council of the European Union for Economic and Monetary Affairs (ECOFIN) discussed the report on 15 November 2013 and EU Member States agreed that the European Commission (EC) should report back at one of its forthcoming meetings.

The 3 ESAs strongly believe that the recommendations to revise the current structure of the Supervisory Board (SB) of the European Financial Reporting Advisory Group (EFRAG) as set out in the report do not satisfactorily address the public interest. With this letter we would like to share with you our concerns and views on potential implications.

In the individual letters¹ sent to Philippe Maystadt during the consultation process, the three ESAs stressed the importance of their involvement in the endorsement process. At the same time, the ESAs pointed out that the body entrusted with such responsibilities should serve the public interest and have decision making processes centred on public authorities.

We welcome the fact that the report proposes the involvement of the three ESAs and the European Central Bank (ECB) within the governance structure of the body to provide endorsement advice to the EC. It does however not address the more fundamental issues stemming from the fact that the responsibility for giving endorsement advice has been granted to a body with a governance structure mixing private and public parties.

¹ ESMA/2013/1415, EBA/ 2013/1007 and EIOPA/13/434

The three ESAs strongly believe that the responsibility for giving endorsement advice to the EC, who ultimately decides on the adoption of accounting standards within the EU legislation, can only be entrusted to a public body that has the duty to protect the public interest. The three ESAs do not see any reason why providing an endorsement advice on IFRS should differ from the established processes in other areas of financial regulation where advice to the EC is given by public interest bodies subject to proper due process and public consultation during which the views of private interest bodies can be raised.

According to their establishing Regulations the three ESAs are independent authorities which act in the public interest and should contribute to the stability of the financial system, enhancing the transparency of markets and financial products as well as ensuring consumers' protection – from a truly European perspective. These objectives are unlikely to be always aligned to the objectives of the private stakeholders or national standard setters represented in the new EFRAG SB.

The three ESAs have serious concerns whether the proposed voting model will allow the accurate reflection of their views as European public interest bodies. The report refers to the commitment of all members to express a single view and the possibility of abstaining or remaining silent. The proposed voting model does however not allow the public interest members to have dissenting views and to veto advice that would run counter to the public interest.

The ESAs believe that only the public authorities represented in the proposed board should decide on the final endorsement advice to the European Commission, taking into consideration the input from the members of the EFRAG SB representing private interests and the results of the public consultation process.

Consequently, in the absence of any changes to the proposed voting model, the three ESAs will refrain from accepting membership but ask for an observer status in the new EFRAG SB. Furthermore, the three ESAs will reserve the right to submit their opinion on the endorsement advice on the use of existing, new and amended IFRS to the EC. In line with current practice the ESAs will also continue to submit their own comment letters to the IASB by bringing their own perspectives to the development of new financial reporting standards and thus fulfilling their obligations from their respective founding regulations.

Considering the importance of the matters to which we are referring in this letter we would be grateful to discuss this, as well as any proposed changes addressing our concerns, with you and your services.

Yours sincerely



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and Chair of the Joint Committee
of the ESAs



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CC: Jonathan Faull, Director General DG Internal Market and Services
Sharon Bowles, Chair Committee on Economic and Monetary Affairs (ECON), European Parliament
Giannis Stournaras, Minister of Finance of the Hellenic Republic, Chair of the ECOFIN Council