



European Securities and  
Markets Authority

**The Executive Director**

**RESTRICTED**

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PIOB**

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**Ref: Public consultation on the governance of the Monitoring Group, the  
PIOB and the standard-setting boards and Compliance Advisory Panel oper-  
ating under the auspices of IFAC**

*Dear Ethiopis, dear Eddy*

The Monitoring Group and the Public Interest Oversight Board (PIOB) published on 28 March 2012 a public consultation on the governance framework around the standard-setting activities operating under the auspices of the International Federation of Accountants (IFAC) and on the PIOB's work programme 2012 and beyond.

Over time the International Federation of Accountants (IFAC) has developed international standard-setting activities in the area of auditing and assurance through the International Auditing and Assurance Standards Board (IAASB), ethic standards through the International Ethics Standards Board for Accountants (IESBA), education standards through the International Accounting Education Standards Board (IAESB) and public sector accounting standards through the International Public Sector Accounting Standards Board (IPSASB). These are not the only private-sector standard-setting bodies in accounting. The consultation paper therefore rightly refers to International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB) which is overseen by the Trustees of the IFRS Foundation and a Monitoring Board composed of capital market authorities.

Recently there has been an almost continuous and detailed assessment of the governance framework around the IFRS Foundation. ESMA believes that the PIACs, the IFAC, the Monitoring Group and the PIOB should consider whether they could adopt best practices emerging from this assessment of the governance framework around the IFRS standard-setting process.

ESMA believes that in the short and medium term the Monitoring Group, PIOB IFAC and PIACs should further improve the governance framework and due process around the standard-setting activities. In particular, we believe that there is a need for a more diversified membership of the PIACs (with more non-practitioners receiving a reasonable compensation) and enhancement of the nomination process. ESMA sees also merit in preparing a *compilation document* that would explain the standard-setting process and the different roles of the various actors.

ESMA believes that in the long term international standard-setting activities should be carried out by dedicated independent organisations subject to public oversight. We would encourage the Monitoring Group to reflect on a long term model that takes into account the need for an independent technical standard-setter and public oversight. For ESMA this means that in the long term the standard-setting activities that are currently carried out within the IFAC structure should move to a separate dedicated independent organization.

Regarding the PIOB, ESMA would like to highlight that ensuring that private sector standard-setters are acting in the public interest is not a straightforward issue. ESMA believes that the PIOB's due process cannot be developed in a mechanical way and that it is important to be aware of the public interest implications. Indeed, respect for due process may not always guarantee protection of the public interest. For ESMA, the PIOB's mission goes further than avoiding the risk that private interests will overtake the public interest. The PIOB should keep on seeking to be aware of and understand the substance and the implications of a new standard to determine whether the public interest was served in its development process, without undermining the PIACs' independence on standard-setting technical activities. Finally, ESMA suggests that the PIOB increases its efforts to assess whether the decisions by the PIACs and its task forces sufficiently take into account the public interest.

Finally, ESMA believes that there is a need for further debate on the characteristics of an appropriate public oversight model for the IPSASB. ESMA wants to stress the importance of transparent and reliable financial reporting by public sector entities, especially when the funding of public sector entities depends (in part) on funding via securities markets. High quality accounting standards should be developed under appropriate public oversight. However, in prospect of such a debate and ESMA being convinced that public sector accounting standards could greatly contribute to investor protection as well as to the stability and sustainability of public finances, improving the oversight of IPSASB is desirable. As a first step, ESMA would support the PIOB overseeing the activities of the IPSASB as well.



Our detailed comments are set out in the Appendixes to this letter. Responses to the consultation paper on the broader governance framework are provided in appendix 1. ESMA's views on the PIOB's 2012 and beyond work program are provided in appendix 2.

We would be happy to discuss all or any of these issues further with you.

A handwritten signature in black ink, appearing to read 'Yours'.

A handwritten signature in black ink, appearing to read 'Verena'.

Verena Ross

## **APPENDIX 1 – ESMA’s detailed answers to the question in the consultation paper**

1. Over time the International Federation of Accountants (IFAC) has developed international standard-setting activities in the area of auditing and assurance through the International Auditing and Assurance Standards Board (IAASB), ethic standards through the International Ethics Standards Board for Accountants (IESBA), education standards through the International Accounting Education Standards Board (IAESB) and public sector accounting standards through the International Public Sector Accounting Standards Board (IPSASB). They are referred to as the Public Interest Activity Committees (PIACs). All PIACs but the IPSASB are currently subject to public oversight through the PIOB and Monitoring Group.
2. The consultation paper rightly refers to International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB) which is overseen by the Trustees of the IFRS Foundation and a Monitoring Board composed of public authorities. The wide adoption of IFRS and their significant impact on financial markets led to a debate on the governance framework around the IFRS Foundation. The financial crisis emphasized the need for such a debate.
3. ESMA believes that the PIACs, the IFAC, the Monitoring Group and the International Public Interest Oversight Board (PIOB) should consider whether they could adopt best practices emerging from the assessment of the governance framework around the IFRS standard-setting process. In addition, we believe that there is a need to consider whether the activities of the monitoring bodies could be further aligned.

### **Question 1**

**Do you consider it necessary to enhance the representation of the public interest? If so, which additional actions, apart from the appointment of an independent IESBA Chair and redefining the nature of non-practitioner board members, would you suggest to reinforce the mechanisms to safeguard the public interest?**

### **Question 2**

**In the long term, would you favour a different and fully independent standard-setting model completely outside the IFAC structures and if so how could such a structure be defined?**

#### *Improvements in the short-medium term*

4. ESMA believes that already in the short and medium term the Monitoring Group, PIOB IFAC and PIACs should further improve the governance framework and due process around the standard-setting activities. In particular, we believe that there is a need for a more diversified membership of

the PIACs (with more non-practitioners receiving a reasonable compensation) and enhancement of the nomination process. ESMA sees also merit in preparing a *compilation document* that would explain the standard-setting process and the different roles of the various actors.

#### *Long term model*

5. Growing international trade, capital flows between countries, international investments, multinational firms and international bond and equity offers emphasize the need for global financial regulation. Only strong international co-operation and regulation can serve as backbone for the global economy. With the objective of contributing to ensuring the integrity, transparency, efficiency of financial markets, and ultimately financial stability, ESMA is highly committed to strong international standards.
6. Valuing the important contribution that private bodies like the IFAC have made towards international standards, ESMA believes that in the long term international standard-setting activities should be carried out by dedicated independent organisations subject to public oversight. For ESMA this means that in the long term the standard-setting activities that are currently carried out within the IFAC structure should move over time to an independent organisation.
7. In addition, when looking at the broader picture we believe that there is a need to enhance the cooperation between the different international standard-setting bodies. Different bodies are setting standards on interrelated subjects and there are many overlapping interests and activities. This is also the case for the public oversight through the existing Monitoring Board and Monitoring Group capturing these standard-setting activities.
8. We would therefore encourage the Monitoring Group and the Monitoring Board to reflect on a long term model taking into account the need for an independent technical standard-setter and public oversight.

#### The role of the different bodies

9. The proposed independent organisation should have a board of Trustees composed of highly distinguished individuals with a public profile. The Trustees should be responsible for the day-to-day oversight of the standard-setters. In doing so, the Trustees could decide to set up dedicated committees but should bear collective responsibility for achieving the organisation's mission, serving the public interest and respecting due process.
10. Such an organisation would be accountable to a monitoring body. Though ESMA believes that there is a need for further assessment as to whether the activities of the bodies carrying out the monitoring

of the IFRS Foundation and the proposed independent organisation could be aligned, the different technical interests necessitate the existence of two bodies. The role of the bodies – as link between the Trustees of the respective foundations and public authorities – would clearly be to assess to what extent the Trustees, the standard-setting board and other committees act or have acted in the fulfilment of the public interest.

11. One of the main issues is thus to determine the basic nature and main functions of the Monitoring bodies: either public oversight or to be in charge of the governance of the foundations. In our view, the role of the Monitoring bodies would consist in the long term of setting the strategy within a developing regulatory environment, designing the Foundations' missions and fundamental structures, composition and due process and overseeing that they are functioning as anticipated. Where the Trustees of the Foundation oversee the activities of the technical standard-setting board, the main role of the Monitoring body should be one of governance.

#### Funding

12. ESMA believes that the necessary independence of the standard-setting boards would be strengthened by stable and diversified funding. A stable funding mechanism benefits the standard-setting boards by allowing them to carry out their technical agenda and attract high quality staff. In the long term a significant majority of PIAC Board members should be paid full time by the independent organisation with a possibility for a minority of part-time paid members. We believe that this could provide greater assurance to jurisdictions using or in the process of adopting the standards, on their quality and independence. Sufficient and independent funding is key to achieving this objective.
13. ESMA would in principle not exclude the use of voluntary contributions (many of which come from the global audit firms) and believes that the different regulators within the jurisdictions using or in the process of moving to international standards, should further consider developing stable funding mechanisms. Given their importance for financial markets, ESMA believes that the objective of achieving public finance should focus at this moment on the standard-setting activities resulting in IFRSs, International Standards on Auditing (ISAs) and probably IPSAS as well.
14. ESMA would encourage the Monitoring Board and Monitoring Group to set up a high level working group to explore further alignment of their activities.

#### Question 3

**Do you consider the current three-tier system adequate for achieving its objectives, or an alternative model could be more adequate? In the latter case, which model would you suggest?**

15. ESMA welcomes this consultation paper as it is of the opinion that there is a need for further debate as to how oversight of international standard-setting should be structured. The current three-tier system and interaction between the PIOB and Monitoring Group has indeed the advantage of making a clearer distinction between direct oversight and the more strategic role of the Monitoring Group.
16. We agree that the current three-tier model seems to fit the governance framework around the IFAC. We however believe that in the long term there is a need to develop a new three-tier structure consisting of:
  - independent technical standard-setting bodies;
  - a Board of Trustees responsible for the public oversight over the independent technical standard-setting bodies and who's mandate goes further than providing supporting procedures; and
  - a Monitoring Body with a governance role. We believe that a more direct oversight of the activities of the Trustees would contribute to enhance the public interest and strengthen the organisation's public accountability.
17. We believe that in the short term the Monitoring Group should further improve its strategic role as well as having a closer oversight of the PIOB's operations.

#### Question 4

**Would you support the IPSASB being subject to PIOB oversight? Why? What conditions, if any, would you impose on such oversight? Would you see as a factor to take into account the fact that IPSASB deals with accounting rules instead of auditing ones?**

18. ESMA believes that there is a need for further debate on the characteristics of an appropriate public oversight model for the IPSASB. ESMA wants to stress the importance of transparent and reliable financial reporting by public sector entities, especially when the funding of public sector entities depends (in part) on funding via securities markets. High quality accounting standards should be developed under appropriate public oversight. However, in prospect of such a debate and ESMA being convinced that public sector accounting standards could greatly contribute to investor protection as well as to the stability and sustainability of public finances, improving the oversight of IPSASB is desirable. As a first step, ESMA would support the PIOB overseeing the activities of the IPSASB as well.

### Question 5

**Do you see merit in having a “Compilation Document” for the whole structure? In this case, which alternative would you prefer for organising the structure and nature of the Compilation Document?**

19. ESMA sees the merit of preparing a *compilation document* that would explain the standard-setting process and the different roles of the various actors. However, if there are no changes to the structure we see no need to develop new legally binding documents and believe that the wider public would benefit of a stand-alone document supported by the entire current three-tier structure setting out the structure and its objectives. The document could thus provide links to the various existing agreements.

### Question 6

**Given the breadth of the current mandate, would you consider it helpful to modify the name of the structure to improve its visibility? In this case, what name would you suggest?**

20. ESMA concurs with the suggestion that the public oversight model is not widely known within the wider financial services community. A different name could potentially contribute to wider recognition but should reflect the mandate of the organisation. ESMA would agree not to refer to the IFAC governance as such as the IFAC is not the subject of the oversight. In addition, for ESMA the need for a new corporate identity depends on the expected future governance model as set out in our response to questions 1 and 2. In that respect there might be no urgent need for a new name.

### Question 7

**Do you agree with the proposal that the MG should have a more strategic role?**

21. ESMA agrees that the Monitoring Group should have a more strategic role and thinks that it should focus on whether or not the whole structure continues to meet its strategic objectives.

### Question 8

**Do you agree with the objectives proposed, and, specifically, with the MG having the possibility of conferring with the PIOB on the PIACs’ agendas and receiving appropriate feedback?**



22. ESMA agrees that the main mission of the Monitoring Group is to monitor the entire process and to provide strategic guidance on regulatory developments and changes in the economic context that may have an impact on the standard-setting activities. We agree that this should include occasional meetings with the chairs of the different PIACs and the ability for the Monitoring Group to refer through to the PIOB, a public interest issue for the PIACs to consider, including it in the Boards' agenda. ESMA however believes that this should not affect the independence of the PIACs.

### **Question 9**

**Do you agree with the suggested ways of improving the communication activities? Would you consider it useful for the MG to have in special occasions direct involvement with PIACs?**

23. ESMA supports improving the communication activities by the Monitoring Group. There is a need for the Monitoring Group to develop the transparency and effectiveness with which it carries out its important role. There should be a unique website for all activities relating to the Monitoring Group. Such a website should include background information, supporting (public) agenda papers and a calendar of upcoming meetings.
24. ESMA does not believe that the Monitoring Group should be directly involved in the standard-setting activities. However, in addition to discussing and setting the more strategic direction, we believe that the Monitoring Group could (i) provide advice on the agenda or work plan and provide inputs on possible additions based on the regulatory and supervisory background of its members and (ii) in very rare and extraordinary circumstances members of the Monitoring Group acting unanimously should have the ability to ask the PIACs to add an issue to its agenda, based on financial stability or market transparency and investors' protection concerns.

### **Question 10**

**Do you have any specific suggestion on how liaison with investors could be improved? In this sense, do you see merit in some portions of the MG meetings having the public in attendance?**

25. ESMA welcomes the Monitoring Group's focus on protection of investor's interest but believes that defending the public interest should include all financial market participants. Though we would not oppose the Monitoring Group to start developing contacts with the investor community we believe that it should rather encourage the standard-setting boards to give due consideration to the views put forward by investors. In any case, if the Monitoring Group or any other body would start devel-

oping such contacts we believe that it should strive for a balanced group of representatives of the investor community.

26. ESMA would support to make (parts of) the meetings of the Monitoring Group public. This transparency would not only benefit investors but would enhance the confidence in the standard-setting process and its public oversight.

#### **Question 11**

**Would you find it useful that the MG engages with organisations representing governmental institutions? Would the G20 be the most appropriate or, should other bodies be considered instead?**

27. Given the clear support for international regulation from the G20 ESMA would encourage the Monitoring Group to engage further with the G20, representing the world's 20 major economies, to see how the oversight of the international standard-setting activities could be further enhanced. This should not exclude liaison with other governmental institutions including both the jurisdictions participating and not-participating in the activities of the G20.

#### **Question 12**

**What is your opinion about the current composition of the MG ? (i) Do you believe that other organisations (i.e. national or regional regulators) should or could be represented in the MG? If so, which criteria do you think new members should fulfil to become MG members? (ii) Should a maximum be set to the number of MG members? (iii) would you favour a change of how the Chairperson is appointed?**

28. ESMA believes that the Monitoring Group should be composed of international organisations with interest in regulating and enforcing audit oversight. ESMA supports the current composition of the Monitoring Group and believes it achieves a good balance. ESMA does not believe that it should be further widened to national regulators.
29. ESMA believes that it would enhance the public accountability of the Monitoring Group if it would be possible for jurisdictions where there is more than one relevant authority to nominate a second representative as observer.

### Question 13

**Do you see a problem in MG members appointing full time employees of organisations represented in the MG as PIOB members?**

30. Though the possibility for a Monitoring Group member organisation to nominate a senior representative to the PIOB (who is not involved in the activities of the Monitoring Group) should not be excluded, ESMA believes that the composition of the PIOB should primarily be led by seeking distinguished individuals with a good technical knowledge representing together a broad variety of professional and regulatory backgrounds.

### Question 14

**Would you consider it convenient to avoid direct hierarchical relationship between the PIOB and the MG members?**

31. ESMA agrees that it would be a better corporate governance not to appoint members to the Monitoring Group that are working under the hierarchy of a PIOB Member. The hierarchical issue is not only a concern between the members of the Monitoring Group and the PIOB but also for the permanent secretariat, if it were to be decided to set up such a secretariat. In ESMA's opinion consideration should be given to the organisational structure of the supporting staff if IOSCO were to provide the supporting staff to the permanent secretariat of the Monitoring Group and to the PIOB.

### Question 15

**Do you think that the roles and responsibilities of MG and PIOB should be further clarified? Do you have specific suggestions regarding which areas this clarification should address?**

32. Referring to our response to question 5 we believe that there is a need for further clarification between the roles and responsibilities between the Monitoring Group, the PIOB, the PIACs and the IFAC. Believing that this clarity is rather a question of communication than of substance we would focus on the proposed *compilation document*. Particular issues on which we would welcome more clarity are (a) the overall responsibilities in the system, (b) the oversight of compliance with the agreed processes and decisions and (c) whether and how public interest is ensured (whether it is a joint responsibility or whether and if so, how, it is broken down between the PIOB and Monitoring Group).

#### **Question 16**

**Do you see merit in the PIOB undertaking a regular review of its process and oversight framework through its strategy document?**

33. We would suggest the PIOB to develop an oversight plan with tri-annual public consultation. Such a plan could include the relevant projects from the PIACs, the wider context of the public interest issues and how the PIOB will monitor the public interest within these projects.

#### **Question 17**

**Do you see merit in the PIOB periodically producing a strategy document that would supplement the yearly business plan and budget? What should this involvement of the MG be in the production of these documents?**

34. ESMA supports the proposals to adopt the policy of like-minded international standard-setting organisations to develop strategic plans periodically and to consult with market participants. As part of setting the strategic objectives of the PIOB we believe that the Monitoring Group should be consulted prior to the publication of such a consultation paper.

#### **Question 18**

**Do you think that the current composition of the PIOB could be enhanced? Would you consider convenient that the PIOB's composition is reviewed each time a new body becomes full member of the MG?**

35. ESMA believes that PIOB should be composed of distinguished senior individuals with a background from regulatory and public interest organisations and supports the current composition of the Board appointed for a fixed term but renewable once. However, in the medium term we believe that it should be considered to appoint more members with an audit regulatory background.
36. As members of the PIOB are appointed in their individual capacity ESMA does not believe that a new body joining the Monitoring Group should have a direct impact on the composition of the PIOB.

#### **Question 19**

**Would you consider the current composition of the PIACs appropriate? Do you see merit, in the context of a second effectiveness review, in exploring the idea of having a majority of non-practitioners and a majority of public members?**

37. ESMA welcomes the recent changes made by IFAC in its constitutional arrangements to no longer limit the nomination process of some Board members to representatives of IFAC member bodies or the Forum of Firms.
38. We agree with the Monitoring Group that it would be more convenient to have a majority, if not all, non-practitioner members and that the three Chairs of the Board should be non-practitioners. We note that it should be considered that audit knowledge and experience can also be obtained outside audit firms and that to be employed by an audit firms does not necessarily mean that the member has recent audit experience.
39. In addition, ESMA believes that a reasonable compensation for non-practitioners would facilitate their contribution and that in the long term all or a significant majority of PIAC Board members should be full time paid by the independent foundation, with a possibility for a minority of part-time paid members.

#### **Question 20**

#### **Do you consider best practice a nine years period for rotations of the representatives of CAG member organisations?**

40. Currently the objective of the Consultative Advisory Group (CAG) is to provide input to and assist the PIACs through consultation with the CAG member organisations and their representatives to obtain advice on the IAASB's work program, technical advice on projects and advice on matters relevant to the activities of the PIAC.
41. The different standard-setting bodies should be composed of high technical competence supplemented by a strong due process to seek the views from market participants. In that respect, as is currently already the case, the CAG serves rather as an advisory group to discuss the strategic direction of the standard-setter and to promote the acceptance of the international standards.
42. ESMA believes that the composition of the CAG should be reviewed periodically. In light of the objective of the Advisory Group ESMA does not believe that there is a need to include limitations on the mandate of representatives of the CAG member organisation.
43. In line with the reasoning set out above we believe that the standard-setting boards should participate actively in the activities of the CAG but that in the long term the chair of the CAG should not participate in the standard-setting activities.

### **Question 21**

**Would you agree that it is not realistic at the current time to attempt to alter the funding structure of standard-setting activities in any substantial fashion?**

### **Question 22**

**Do you consider appropriate that IFAC finances the largest part of the PIOB budget ? If not, do you consider appropriate that IFAC launches an external fundraising having some contributions of the MG members in the mean time?**

### **Question 23**

**Do you think it is feasible to have a similar funding structure in place for the PIOB to that in place for funding the IFRS Foundation?**

44. The consultation paper rightly refers to the review of the governance framework of the IFRS Foundation and as set out to in our response to the questions above ESMA believes that the IASB's due process could provide best practices in some areas. A strong due process guarantees the independence of the standard-setting body and enhances the acceptability of the standards. However, in our opinion the key issue for the IFRS Foundation and the PIAC standard-setting activities remains funding and should be solved in the medium term. In line with our long-term vision we believe that both the Monitoring Group and Monitoring Board should actively start considering the funding issue.
45. ESMA believes that the necessary independence of the PIAC and the PIOB could be strengthened by more stable and diversified funding. A stable funding mechanism benefits the standard-setter and the PIOB by allowing it to carry out its technical agenda and to attract high quality staff. It also provides greater assurance to jurisdictions using or in the process of adopting international standards of their quality.
46. Although ESMA would not, in principle exclude the use of voluntary contributions (many of which come from the global audit firms), we believe that the different regulators within the jurisdictions using or in the progress of adopting the international standards should further consider developing stable funding mechanisms. Following the example of the European Commission, ESMA believes that the PIOB should be financed by the regulatory community and believes that it is undesirable, for the broader support for the public oversight activities that its budget largely depends on the contributions from the IFAC. ESMA believes that in a long term model the PIOB should ideally be financed entirely by the regulatory community. In prospect of that the PIOB should be financed for at least 50% of its budget by public authorities. Over time, considering further adoption of the interna-

tional standards, the PIAC standard-setting activities should also be financed for more than 50% through public funding mechanisms.

#### **Question 24**

**Do you see the need for and/or merit in having a permanent Secretariat for the MG? In this case, do you think IOSCO should provide resources for a permanent secretariat to the MG?**

47. We understand that the Chair of the Monitoring Group provides now the group's secretariat services. We understand that providing such resources can be demanding and difficult for the organisation concerned. A rotating secretariat has a detrimental impact on the continuity of the Monitoring Group's work. We are therefore supportive of the idea of a permanent secretariat. A permanent secretariat without links to the standard-setters would contribute to the stability and the effectiveness of the oversight.
48. In our opinion, IOSCO would be the most natural organisation to provide this secretariat which should probably be composed of only a few people at least in the beginning but could be enlarged dependant on the development of the work of the standard-setters. As set out above we however would like to warn of the potential conflict if IOSCO were to provide the secretariat to the Monitoring Group and the PIOB.

#### **Question 25**

**How do you think the governance of the international auditing, ethics and education standard-setting process could improve audit quality? What are the main objectives that those responsible for governance should take into account?**

49. This question goes further in our opinion than the governance of the organisation and touches upon the *raison-d'être* of the organisation and the public oversight.
50. The different standards were developed as a response to a concern that existing regulation was insufficient, outdated or not capable of standing up against the internationalisation of financial markets. They contribute to the public good and their widespread international acceptance is key for their success.
51. As for any public good the support of the wider community depends on the level of trust that the community has in the entire functioning of the structure and its outcome. The role of this trust is

even more important for financial sector legislation, a sector where the role of trust can hardly be overestimated.

52. There are various reasons why jurisdictions have adopted international standards, of which the lack of knowledge and the need for international legislation are just a few. Independent international standard-setters develop high-quality standards.
53. But what is then the role of public oversight? Public oversight should contribute to maintaining the trust in the regulation of financial markets through international standards. Setting the wider strategic directions of the various standard-setters allows to convey the concerns of the wider community and to enhance the accountability, and thus the acceptability, of the international standards.
54. This should however not lead to losing the main objective out of sight: achieving international standards of the highest quality. A strong, though independent, international technical standard-setter, needs involvement of the private sector and there is therefore an inherent conflict of interest. It cannot be the aim of public oversight to harm the technical standard-setters in achieving its mission. On the contrary, public oversight should encourage the standard-setters to continuously seek high quality standards.
55. Public oversight should therefore among others secure that the standard-setting process is free from undue private sector influence and in this case from the audit firms in particular. Though this might be the case of the PIACs collectively, individual members might have significantly differing interests.
56. The fact that proper due process has been applied to the standard-setting process and that this is confirmed by public authorities contributes to the trust in international regulation. This in turn will contribute to improving audit quality as the various stakeholders are convinced of the high quality of the standards and that they reflect expectations from the wider community. And that requires a strong enforcement mechanism.

## **Question 26**

**What is your opinion about the current structure? Do you think the current structure is appropriate in order to improve audit quality? If not, what changes, suggestions or remarks would you propose?**

57. ESMA believes that the current structure was an appropriate and balanced starting point at the time of its introduction. Past experience and developments in other areas however make ESMA believe that there is a need to develop a long term governance model. We would like to refer to our response to question 1.



### Question 27

**Do you agree that the current levels of empowerment and responsibility of the bodies that compose the current structure (MG, PIOB and PIACs) are appropriate? If so, do you have any suggestions for improving the dialogue and interaction between the different bodies? If not, how these levels of empowerment and responsibility could be improved?**

58. ESMA thinks that the current levels of formal empowerment and responsibility are sufficient. However, we believe that both the Monitoring Group and the PIOB could further develop their actual oversight activities and their interaction.
59. In addition we believe that the PIOB should enter into dialogue with the IFAC and the different PIACs to see how the activities of the various PIACs could potentially be aligned. This is especially the case for the IAASB and the IESBA whose activities often strongly interrelate. Further we strongly encourage the PIOB to strengthen its oversight efforts as to whether the decisions made by the PIACs and their task forces are sufficiently taking into account the public interest.

### Question 28

**Do you think that there is any other overall structure that could achieve improvement in audit quality more efficiently? If so, what could they be and how might they be financed.**

60. We would like to refer to the proposed long-term model as set out in our response to question 2 and to our views on the future funding of the organisation as set out in our response to questions 21-23.

## APPENDIX 2 – ESMA’s detailed answers to the question on the PIOB work program 2012 and beyond

### Question 1

**Do you find the mandate of the PIOB as defined in the 2003 IFAC reforms (“to increase the confidence of investors and others than the public interest activities of IFAC (including the setting of standards by IFAC boards and committees) are properly responsive to the public interest”) still appropriate? Please explain your views.**

61. ESMA agrees with the mandate of the PIOB to increase confidence of investors and others that the public interest activities of IFAC are properly responsive to the public interest. Ensuring the public interest is currently most relevant for the International Standards on Auditing, the International Standard on Quality Control and the Code of Ethics. As set out in our response in appendix 1 to the public consultation on *the governance (with special focus on organisational aspects, funding, composition and the role) of the Monitoring Group, the PIOB and the standard-setting boards and Compliance Advisory Panel operating under the auspices of the IFAC*, ESMA believes that there is a need for further debate on the characteristics of an appropriate public oversight model for the IPSASB.

ESMA wants to stress the importance of transparent and reliable financial reporting by public sector entities, especially when the funding of public sector entities depends (in part) on funding via securities markets. High quality accounting standards should be developed under appropriate public oversight. However, in prospect of such a debate and ESMA being convinced that public sector accounting standards could greatly contribute to investor protection as well as to the stability and sustainability of public finances, improving the oversight of IPSASB is desirable. As a first step, ESMA would support the PIOB overseeing the activities of the IPSASB as well.

62. Looking at the adoption of the various standards issued by the PIACs, ESMA believes that the acceptability of the standards can be further improved which results naturally in a growing role for the PIOB. In our opinion, the role of the PIOB should not be limited to confirm whether the due process was duly applied. ESMA believes that it is important to differentiate between the need for independent high quality execution of standards and the need for a strong accountability framework. The former would help to ensure the latter. ESMA would encourage the PIACs to further improve the participation of all relevant stakeholders, including supervisory authorities, in the standard-setting process but also to use of systematic impact assessments and clear communication on its agenda-setting.

63. The PIOB itself should further develop its activities as the *guardian of the public interest*. This means that the PIOB should oversee any decisions by the PIACs to assess whether they have properly considered all different views and comments received to help ensure these decisions reflect the public interest. For ESMA, this would even mean that the PIOB from time to time should re-assess the comment letters the PIACs receive to ensure that there is no bias in the PIAC's analysis. Another thing it might do is consider whether issues papers address all the substantial concerns raised by respondents. If necessary, the PIOB may even challenge the PIAC's technical decisions, when there are indications that the public interest is seriously at stake.

#### **Question 2**

**Do you agree that the PIOB's main focus should continue to be to oversee due process and protect the public interest? Are there any other matters that the PIOB should focus on? Please explain your views.**

#### **Question 3**

**Do you find the PIOB model of informed oversight the best possible model to guarantee public interest protection?**

#### **Question 4**

**Would you suggest any other avenues for the PIOB to further improve its oversight of the PIACs?**

64. It is the PIOB's mission to protect the public interest. How the public interest can best be served is not a straightforward issue. Respect for due process may not always be enough in order to guarantee protection of the public interest. ESMA strongly encourages the PIOB to focus more on what public interest should entail and how protecting the public interest is best achieved. This could imply analysing the outcome of the standard setting process and the quality of standards with a view of public interest needs. The PIOB's mission goes further than avoiding the risk that private interests will overtake the public interest. The PIOB could look more into technical issues, the PIACs agenda-setting and should keep on seeking to understand the substance and the implications of a new standard to determine whether the public interest was served in its development process.
65. It is our opinion that oversight should continually encourage improvements to the working methods and initiatives to fully understand the various aspects of the public interest. The PIOB should continue to monitor the performance and the overall behaviour of the board under its mandate.

66. We would suggest for the PIOB to develop an oversight plan with tri-annual public consultation. Such a plan could include the relevant projects from the PIACs, the wider context of the public interest issues and how the PIOB will monitor the public interest within these projects.

#### **Question 5**

**Do you agree with the medium-term strategic objectives for the PIOB? Please explain otherwise.**

#### **Question 6**

**Given the implementation of the Oversight Assurance Mode in place of the 100% direct observation model, do you think that the achievement of a sufficient level of oversight comfort by the PIOB will itself provide stakeholders with a sufficient level of comfort that the public interest is being protected? Please explain your reasons.**

67. For ESMA the most important for the PIOB is to achieve its goal and to be responsive to the public interest. ESMA supports the proposed medium-term strategic objectives and agrees with the PIOB to conduct its oversight activities using a range of activities and techniques. Like, the PIOB we do not consider an oversight model relying solely on direct observation the most effective.
68. Though ESMA supports the proposal to appoint one of the PIOB members to be the lead member assigned to the oversight of each PIAC and corresponding CAG, we strongly believe that the oversight remains a collective responsibility of the Board. To that end we think that choosing the appropriate Oversight Assurance Model should be the responsibility of the PIOB collectively and not of an individual member. Along the same lines we do not support the idea that the team leaders will present the findings of their work to the PIOB at the end of the year. ESMA believes that there should be a continuous dialogue potentially supplemented by interim reports during the year to the PIOB.
69. In any case it reinforces our position that it would require PIOB members to have an adequate knowledge of auditing and the need for high quality staff with an appropriate knowledge of auditing and public interest/regulatory concerns.
70. In its consultation paper the PIOB defines an oversight assurance model and proposes to apply model OA3 (Medium Intensity with moderate level of oversight assurance) for the activities of the IAASB and IAASB CAG. Bearing in mind the important standard-setting activities that the Board is currently carrying out, the important role of the auditing and assurance profession in the current vulnerable financial markets as well as the fact that ISAs are currently considered by various jurisdictions for adoption within their jurisdictions, ESMA would strongly encourage the PIOB to recon-

sider its decision and to strengthen its oversight of the IAASB (and the corresponding CAG) activities.

#### **Question 7**

**Do you agree that consulting the Monitoring Group and other stakeholders through an active communication policy will help the PIOB to form its own opinion on agenda-setting public interest priorities? Please explain.**

71. In the current set up and in order to achieve the underlying objection of the public oversight, ESMA believes that a continuous and open dialogue between the PIOB and the Monitoring Group is crucial.
72. ESMA would agree that there is a clear need for the PIOB to sharpen oversight of the development of the strategic plans of the PIACs. We would not only encourage the PIOB to adopt an active dialogue with the Monitoring Group but to seek more active co-operation and input from the regulatory community on the different aspects linked to the public interest. In addition, we believe that the PIOB should enhance its contacts with stakeholders by for example further developing the policy where stakeholders can signal shortcomings in a PIAC's due process.

#### **Question 8**

**Do you agree that the PIOB has to be fully aware of the implications of its work to protect the public interest and that its informed approach to oversight requires an active interaction with all stakeholders?**

#### **Question 9**

**Do you agree that the PIOB mandate requires an active communication policy explaining the process of standard-setting and their public interest focus? Do you think that present minimalist policy is sufficient? Do you think that raising awareness of the work of the PIOB should be an objective of its communications policy? Please explain.**

73. ESMA agrees that the standards-setting process and its public interest focus require active communication and interaction with stakeholders. The main mandate for the PIOB, however, is to oversee standard setting and the way the public interest is protected.

74. PIOB should ensure that it is aware of the public interest needs of all stakeholders. We therefore suggest that the PIOB could further develop a policy where stakeholders can signal shortcomings in a PIAC's due process.
75. ESMA also agrees that stakeholders should understand how the standard-setting processes and independent oversight contribute to higher-quality standards and ultimately the ability to have greater confidence in the work of the accountancy profession.
76. There is also a need for the PIOB to develop the transparency and effectiveness with which it carries out its important role. This could for example be achieved through providing summaries of the meetings on its website or to publish the reports assessing the compliance with the due process handbook on its website.

#### **Question 10**

**Do you agree with the view that has been put forward that funding has to be diversified and should not largely dependent on IFAC funding?**

#### **Question 11**

**Please suggest alternative sources for diversifying funding the PIOB budget.**

77. ESMA believes that the necessary independence of the PIAC and the PIOB could be strengthened by more stable and diversified funding. A stable funding mechanism benefits the standard-setter and the PIOB by allowing it to carry out its technical agenda and to attract high quality staff. It also provides greater assurance to jurisdictions using or in the process of adopting international standards of their quality.
78. Following the example of the European Commission, ESMA believes that ideally the PIOB should be financed by the regulatory community in the long term and believes that it is unacceptable for the broader support for the public oversight activities that its budget depends on the contributions from the IFAC.
79. As this is a long term objective ESMA believes that in the meantime the PIOB should be financed for at least 50% of its budget by public authorities.