

**The Drafting Committee of the Best Practice
Principles for Governance Research Providers
Group**

consultation@bppgrp.info

Date 20 December 2013

Our ref. M19150895/1/10712704

Re: **Response of VEUO (Dutch Association of Listed Companies)
to the Public Consultation on Best Practice Principles for Governance
Research Providers**

Dear Madam/Sir,

The VEUO is the association of Dutch companies listed on Euronext Amsterdam. In terms of market cap the VEUO represents the vast majority of the listed companies quoted at Euronext Amsterdam and representing over 90% of the total market cap of Euronext Amsterdam.

The VEUO appreciates that it is given the opportunity to comment on the proposed Best Practice Principles for Governance Research Providers (the "**Principles**") as drafted by the Drafting Committee of the Principles under chairmanship of Dr. Zetzsche. This is a very important subject that goes to the heart of the functioning and governance of listed companies, which in itself is of crucial importance to the European economy. As the VEUO stressed before, in its response to the ESMA Discussion Paper on the Proxy Advisory Industry, the functioning of proxy advisors may determine the success of the EU strategy of encouraging long-term investment, promoting dialogue between issuers and investors, and making the activities of all financial intermediaries more transparent to their end users.

As explained hereafter the VEUO is however disappointed with the current draft Principles which now have been presented. It is difficult to see how these very general standards meet in any way the concerns and goals set by ESMA. In the current form the Principles do not go further than very elementary rules which every service provider should be expected to meet towards a client in the first place and should not warrant any articulation, let alone being presented as new principles which will set corporate governance on a new footing. The principles which now have been presented fall short of anything that other market

VEUO

participants and certainly issuers could have hoped for. This very limited and general set of Principles is in stark contrast with even the most limited corporate governance codes which have been developed over the last ten years.

It would seem to us that the process would have greatly benefited if the group now presenting the Principles, would have been composed much broader and would have included a broad range of market participants and issuers. We hope that this consultation may lead to such a broader process.

Below we have inserted the answers to your questions in *italics* after each and every individual question.

Q1. What are your views about the Principles development process?

As indicated above the VEUO is disappointed about both the process and the outcome of the exercise.

Q2. Respondents are welcome to express their expectations regarding the review and monitoring of the Principles. As the ongoing governance of the Principles has yet to be determined, the Committee particularly welcomes suggestions by stakeholders as to how a representative feedback mechanism can be implemented.

Given the very limited scope of the Principles, its very broad and general wording and the fact that in addition the Principles are intended to operate on a “comply-or-explain” basis, the VEUO is not convinced it is worthwhile to set up a monitoring mechanism.

Q3. Please share your views on the practicality of a comply-or-explain approach to the Principles.

If, as the case is here, principles have been worded in a very broad fashion it would seem that adding a comply or explain approach is not warranted. If signatories can even deviate from very general principles, it would seem that there is not much left.

Q4. Could the effectiveness of the Principles be further enhanced? Please elaborate and provide specific examples and/or suggestions.

The regulation of proxy advisors should focus on transparency of their procedures, and an obligation to take into account the relevant (national) governance codes and the arguments of the issuers as well as making available the views of the issuers to the investors. Deviations from the Code would have to be adequately substantiated.

VEUO

- Q5. Do you believe the Principles and/or supporting Guidance conflict with obligations under legislation or other best practice principles? If yes, please elaborate and provide specific examples and/or suggestions.**

In light of our comments above it is very hard to see how the Principles, as basic as they are worded, could contradict existing law.

- Q6. Please share your views on the procedures for registering as a signatory, describing and disclosing how Principles and related Guidance are being applied, and for disclosing the Statement of Compliance.**

We would think this should not be difficult to achieve by setting up a central website. On such a website each signatory could even have its own portal.

- Q7. What should the regional scope of the Principles be, in terms of signatories and services provided? For example, do you think that the Principles should be global?**

We don't see any objection for the Principles to be global. Having said that we once again refer to the fact that the currently proposed Principles are of such a generic character that it is hard to see that anywhere in the world there would be an objection against its applicability.

- Q8. For additional potential signatories only: Are there factors that generally would keep you from becoming a signatory to the Principles? If yes, please elaborate and provide specific examples and/or suggestions.**

Not applicable.

- Q9. For additional potential signatories only: What are your views on the Guidance for subscription, adoption and ongoing compliance from an organisational point of view? Do you think the ongoing management of the Principles could be improved? If yes, please elaborate and provide specific examples and/or suggestions.**

Not applicable.

- Q10. Do you agree with the definition of “governance research services”? Is the scope of the definition adequate? If not, please elaborate and provide specific suggestions.**

The definition of Governance Research Services Providers is very broad. Although there is no doubt that the already elementary Principles should define the work of each organisation providing these services, one could consider not to subject all these organisations, including the smaller ones and the ones who only from time to time accept research assignments, to the publication requirements. There could be a threshold for example in terms of number of clients that are being served. However, if organisations also engage in voting

VEUO

*advice - with the exception of very limited number of clients (for example 3 or 5)
- this should change because at that point interest of good governance comes into play.*

Q11. Are the definitions of “vote agency services” and “engagement and governance overlay services” and their distinction from “governance research services” sufficiently clear and accurate? If not, please elaborate.

The VEUO thinks that such definitions are sufficiently clear (although one could maybe to consider an exemption if only a very limited number of clients are being served).

However, the VEUO finds it quite disappointing that the Committee has decided not to draft any Principle and even has not given any indication on what should be expected from vote agency services. The argument by the Committee that the ultimate responsibility for the vote decision lies with the shareholder or its investment manager, is flawed, unsatisfactory and absolutely unconvincing. This is the heart of the matter as the whole purpose of the ESMA inquiry was the observation that the advice on voting is crucial.

Q12. Do you agree that the Principles should not impose standards of conduct on investors? If not, please explain why.

The VEUO does not agree. At the minimum there is a responsibility for investors to ask their advisers to explain their working method and whether and how the adviser has complied with the Principles.

Q13. Do you think that Principle One will help the market to better understand the different kinds of services and approaches that participants operate? If not, please explain.

We refer to the above. As broad and generic as Principle One has now been worded, we doubt it will do much to enlighten the market.

Q14. Do you see any issues of service quality that are not addressed in this section? If so, please provide examples and specific information on the purpose and merits of any additional disclosures.

We think an important problem is that issuers have experienced that the standards followed by the proxy advisory firms are not clear and the dialogue is insufficient. Without a basis for understanding, constructive dialogue is even more difficult to achieve. Issuers also have many examples in which they have experienced that the knowledge, skill and experience of advisor staff is limited and many staff members are inexperienced and work for the advisors on a temporary basis.

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Q15. Do you think the disclosure of the research policy, voting guidelines and research methodologies will enable stakeholders to determine how signatories consider local market conditions? If not, please provide reasons.

The VEUO feels that if that is a goal of these Principles, which the VEUO would welcome, it should be made explicit. Such an objective is not clear from the current wording.

Q16. Please express your views on the scope and content of the proposed research-related disclosure under this principle with respect, to:

- a. research policy**
- b. voting guidelines**
- c. research methodologies**

The VEUO refers to the above and the comments made in the introduction.

Q17. For additional potential signatories only: Does the Guidance provide you with the information necessary to properly apply Principle One? If not, would you prefer further Guidance? Please explain.

Not applicable.

Q18. Does Principle Two address the relevant issues or considerations relating to potential conflicts of interest in the provision of governance research? If not, please explain.

We refer to our comments above and specifically in the introductory section of this response.

Q19. Do you agree with the proposed conflict management and mitigation procedures? If not, please explain why and what additional measures you would propose.

The VEUO feels that what is set out is an absolute minimum, but would think that the standard should be substantially higher.

Q20. Do you agree with the proposed approach on disclosure of material conflicts? If not, please explain.

The VEUO feels that what is set out is an absolute minimum, but would think that the standard should be substantially higher.

Q21. For potential additional signatories only: Does the Guidance provide you the information necessary to properly apply Principle Two? If not, what additional Guidance do you need?

Not applicable.

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- Q22. Please express your views on the scope and content of the proposed policy disclosure under this principle with respect to:**
- a. Issuers**
 - b. Media and the public**

As indicated before the VEUO feels that the guidance is far too general and unsatisfactory.

- Q23. Are there any other aspects of issuer-related dialogue that should be taken into account? If yes, please elaborate and provide specific examples and/or suggestions.**

There should always be a willingness on the side of the advisor to engage in a dialogue with the issuer on the correctness of the research and the arguments upon which an advice to vote is made.

- Q24. Are there any other aspects of media and the public dialogue that should take into account? If yes, please elaborate and provide specific examples and/or suggestions.**

The VEUO would think there should be many more cautionary notes on providing unchecked information to the press and the risks this may pose to both the signatory and the issuer.

- Q25. For additional potential signatories only: Does the Guidance provide you with the information you need to properly apply Principle Three? If not, where would you prefer further Guidance?**

Not applicable.

- Q26. In addition to comments on the specific questions addressed in the remainder of this Consultation Document, views are invited on the general approach taken by the Committee and the general features of the Principles.**

The VEUO refers to the introduction to this response.

- Q27. Do you feel that the Principles meet the policy principles set forth in ESMA's Final Report? If not please explain.**

No, as explained in the introductory section of this response the VEUO is quite disappointed in terms of both the exercise and what has come out of it. We refer again to the introduction to this response.

- Q28. Do you have any other comments that the Committee should take into account when finalising the Principles?**

To be quite honest, the VEUO would hope that the Committee would go back to the drawing table, expand the Committee with other market participants and would present a much more elaborated and reworked version of these draft principles.

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We hope the above answers your questions sufficiently, however we would be more than happy to respond to any further queries you may have either in writing or otherwise.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'H' followed by a 'J' and a 'K', all connected by a single continuous line.

Prof. Harm-Jan de Kluiver
Secretary-General of the VEUO