

SUMMARY RECORD

<p>MEETING OF THE ACCOUNTING REGULATORY COMMITTEE AND CONTACT COMMITTEE OF 20 MAY 2005</p>
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M. Delsaux, Acting Director for Company Law & Corporate Governance, DG Internal Market chaired the fifteenth meeting of the Accounting Regulatory Committee and the first meeting of the Contact Committee in year 2005.

1. VOTES OF THE ARC COMMITTEE

VOTE ON A DRAFT REGULATION RELATED TO IAS 39 AND SIC-12.

Result of the vote on a Proposal for a Commission Regulation amending Regulation (EC) No 1725/2003 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council, as regards an amendment to International Accounting Standard (IAS) 39 and an amendment to SIC-12 and with the consequential amendments to previously endorsed IFRS 1. Upon request, the last sentence in recital 3 of the proposal was deleted.

All Member States voted in favour of the draft Commission Regulation proposing the endorsement of an amendment to International Accounting Standard (IAS) 39 and an amendment to SIC-12 and with the consequential amendments to previously endorsed IFRS 1.

VOTE ON A DRAFT REGULATION RELATED TO IFRS 6, IAS 19, IFRICs 4 AND 5

Result of the vote on a Proposal for a Commission Regulation amending Regulation (EC) No 1725/2003 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council, as regards the endorsement of IFRS 6, IFRIC 4 and 5 and the amendments to IAS 19 and the consequential amendments to other previously endorsed IASs 1, 16, 24, 38 and 39 and IFRS 1. Upon request, an amendment to include the wording “financial years starting on” in Article 2 of the proposal was agreed.

All Member States voted in favour of the draft Commission Regulation proposing the endorsement of IFRS 6, IFRIC 4 and 5 and the amendments to IAS 19 and the consequential amendments to other previously endorsed IASs 1, 16, 24, 38 and 39 and IFRS 1.

2. DISCUSSION AT THE MEETING

1. APPROVAL OF MINUTES OF THE ARC-MEETING OF 25 FEBRUARY 2005 AND THE CONTACT COMMITTEE MEETING OF 20 JANUARY 2004

Both minutes were approved without any comments.

2. POSITIONS OF THE MEMBER STATES CONCERNING THE PROPOSAL FOR A COMMISSION REGULATION RELATED TO IAS 39 AND SIC-12

One Member State wanted to delete the last sentence in recital 3 of the proposal, because it referred to US GAAP. The Chairman agreed to delete the text.

3. POSITIONS OF THE MEMBER STATES CONCERNING THE PROPOSAL FOR A COMMISSION REGULATION RELATED TO IFRS 6, IAS 19, IFRICs 4 AND 5

One Member State asked if there is a need to amend the 4th Directive because of the amendment to IAS 19, but considered that this could be done after the endorsement. In his opinion, the Fourth Directive requires increases and decreases in the equity to first go through the profit and loss account.

Some Member States asked whether the Regulation in Article 2 could apply to “financial years starting on 1 January 2006 at the latest” instead of just “from 1 January 2006 at latest”. It was agreed to change Article 2 accordingly.

4. FIRST DISCUSSION ON ADOPTION OF THE FAIR VALUE OPTION (IAS 39)

The Commission briefly introduced a tentative draft Commission Regulation. This was based on the IASB’s near final draft for IAS 39 “Amendments to IAS 39 Financial Instruments: Recognition and Measurement”, the Fair Value Option. The purpose of the draft was to facilitate a first orientation debate and follow this up with a revised draft Regulation for the formal vote at the ARC Meeting on 8 July. The Commission explained that the draft had been the subject of extensive discussion and was supported by both the ECB and Basle Committee.

Member States supported the draft although one Member State had not yet completed its internal discussions. One Member State asked that an evaluation of how the revised fair value option will function should be carried out in. This should be part of the final Regulation. The loss of some flexibility on the application of the fair value option to assets during the transitional period was noted, as well as the possible need to adapt Article 42a of the 4th Directive. The Commission confirmed it would in due course bring forward a paper examining how the necessary adaptation of the 4th Directive could best be achieved.

5. ACCEPTANCE OF IASs ON US CAPITAL MARKETS

The Commission introduced the results of the recent visit of Commissioner McCreevy to the US and the agreed roadmap with the SEC for a decision on the equivalence of IAS with US GAAP.

a) Consistent application

To facilitate a rapid favourable SEC decision, consistent application of IASs across Member States was crucial. For this reason the Commission welcomed the discussions being held under the Chair of John Tiner on the establishment of a so-called “European Forum” to promote consistent application with the close involvement of all stakeholders including major accounting firms.

b) Convergence of accounting standards

More consultation and information on the IASB-FASB convergence programme was vital. The Chairman announced that Sir David Tweedie, IASB Chairman, would participate at the ARC meeting on 8 July.

EFRAG confirmed that it would publish a proposal on this subject for public consultation either just before or just after the summer break.

Member States recognised the importance of consistent application, but confusion needed to be avoided, some flexibility should be maintained and Member State arbitrage should be avoided and there should be no conflict between the new body and IFRIC. The Chairman concluded that these remarks illustrated the need for comprehensive debate at the next ARC meeting.

Member States welcomed the Commission on the agreed roadmap, but considerable caution was expressed. One Member State pointed to the asymmetry in the dates and content of the roadmaps for the two respective equivalence decisions on US GAAP and IFRS in the US and in the EU. Further progress in the IASB governance structure was necessary. Another Member State highlighted weaknesses of US GAAP with IFRS and expressed concern that a positive US decision be delayed even further. A third Member State supported the views of the first Member State and stressed the importance of an early US decision, whilst a fourth welcomed the roadmap but said this should not lead to compromising high quality accounting standards. CESR provided an update on its draft advice on the equivalence between IFRS and third country GAAP and the results of the recent public hearing. In formulating its draft advice, CESR had considered that third country GAAPs could be considered equivalent if they led to the same investment decisions by a market investor. CESR's draft recommendation was that US, Japanese and Canadian GAAP be considered equivalent subject to certain remedies. These did not require the reconciliation of the third country GAAP to IFRS but rather called for different levels of disclosure relating to a limited number of specific items, e.g. the scope of consolidation of special purpose vehicles. The CESR representative stressed the point that the CESR mandate had not called for the identification of an exhaustive list of differences between IFRS and US, Canadian and Japanese GAAP. Nevertheless at the public hearing on 18th May, the proposed CESR remedies had been challenged by some quarters. The CESR representative considered it important to clearly identify the role of the proposed forum to promote consistent application.

The Commission recognised the dates in the timetable for the respective equivalence decisions on US GAAP and IFRS were different. Although the competent comitology committee for the equivalence decision was the ESC, the Chairman also considered important to have a thorough debate in the ARC. Consistent application was important not just in a US context, but also in its own right for the EU-market.

6. INFORMATION ABOUT THE STATE OF PLAY ON IFRIC 3

A representative of the Commission said that at the last ARC meeting on 24 February 2005, the Commission indicated that in accordance with Article 7 of the IAS Regulation a position paper would be presented today that would discuss the way forward in respect of the endorsement of Interpretation IFRIC 3 *Emission Rights*. The Commission does not intend to come forward with a proposal to endorse IFRIC 3. The Commission has sent a letter to the IASB on 13 May 2005 asking for a deferral of the effective date of application.

EFRAG issued a negative endorsement advice on 6 May 2005. In addition, European companies will have practical difficulties applying IFRIC 3, which was drafted on the assumption that companies will be trading allowances in 2005. The Commission believes that, under current circumstances, it may be impracticable to determine the fair value, since there will not always be liquid market for these allowances.

Many Member States asked what companies should do in the meantime as there is no interpretation endorsed by the Commission. The Commission promised to present a document explaining its position.

7. IASB'S ACCOUNTING STANDARD PROJECT FOR SMES

The IASB issued a questionnaire to obtain more information regarding its project on SMEs in April with a deadline for comments until 30 June 2005.

The purpose of the questionnaire is to gather information regarding possible modifications of the recognition and measurement principles in International Financial Reporting Standards (IFRS) for SMEs. The results of the questionnaire will then be used as a basis for discussion at roundtable meetings to be held in September. Colleagues from some three Member States will also participate.

The IASB defines "SME" as "entities that:

- (1) do not have public accountability; and
- (2) publish general purpose financial statements for external users".

The IASB questionnaire looks at the recognition and measurement of items. The level of disclosure has not yet been addressed. The document containing the draft reply asks four questions that the Commission wishes the ARC to address:

Question 1: For which type of company might the project be of added value?

Question 2: Who are the "external users"?

Question 3: Should the Commission carry out a survey to address these two issues?

Question 4: Do you agree with the draft response to the questionnaire?

The Commission asked Member States for comments on the paper.

One Member State responded that it was important to make it clear that it would be optional for Member States to make use of such a standard. Also, that it is too early to tell if such a standard will be of use. Another Member State commented that the IASB's current plans for this project appeared to be heading in the direction of a standard suitable for large unlisted entities rather than SMEs. One Member State stated that SMEs need simplification of recognition and measurement rules in particular on point 7 of the draft response. Another Member State suggested that perhaps it is time to revisit the question of whether SMEs need to prepare and file financial statements. CESR stated that they had an interest in this project as companies preparing to list may use such a standard. The two Member States noted that this is a very important project and therefore should get the active support of the Commission

Many Member States did not support DG MARKT conducting a survey.

The Commission asked that comments on the draft response to the Questionnaire should be sent in by Friday 10 June 2005.

8. PROFIT DISTRIBUTION

The Commission has circulated a working paper on profit distribution. The intention is to start the discussion and understand whether Member States see the need for action in this area and what solutions will be established at national level. There is no doubt that the increased application of Fair Values will influence the current notion of profits, which for the time being are dominated by the "realization and prudence principle".

In the Company Law Expert Group meeting on 15 April, the issue of profit distribution was also discussed briefly. Member States were broadly in favour of performing a study on “Alternative Capital and Note on Profit Distribution”. This study should be ready by the end of 2006.

In general many Member States supported the idea of a study on distributable profits.

One Member State said that they had already come up with a filter type solution for distributing profits. The solution is based on the model found under the Bank Accounts Directive.

9. MISCELLANEOUS

Adoption of IFRIC 2

Adoption by the Commission is foreseen by mid-June 2005.

Next meeting

The next ARC and Contact Committee meeting is scheduled to take place on 8 July 2005.

ACCOUNTING REGULATORY COMMITTEE and CONTACT COMMITTEE

Meeting of 20 May 2005

PARTICIPANTS' LIST

Austria

Justizministerium

Belgium

Fod. Economie

Cyprus

Ministry of Finance

Czech

Ministry of Finance

Denmark

Danish Ministry of Economic and Business Affairs

- Danish FSA

Estonia

Estonian Accounting Standards Board

Permanent Representation to the EU

France

Conseil National de la Comptabilité (CNC)

Ministère de l'Economie, des Finances et de l'Industrie (Trésor)

Finland

Ministry of Finance

Ministry of Social Affairs and Health

Germany

Bundesministerium des Justiz

Bundesministerium für Wirtschaft und Arbeit

Greece

Greek Accounting and Auditing Oversight Board

Ministry of Economy and Finance

Hungary

Ministry of Finance

Financial Supervisory Authority

Ireland

Institute of Chartered Accountants in Ireland

Department of Enterprise, Trade and Employment

Italy
ISVAP
Ministry of Economy and Finance
Banca d'Italia
CONSOB

Latvia
Ministry of Finance

Lithuania
Ministry of Finance
Accounting Institute

Luxembourg
Commission de Surveillance du Secteur Financier
Ministère de la Justice

Malta
Accountancy Board, Ministry of Finance

The Netherlands
Ministerie van Justitie
Ministry of Finance

Poland
Ministry of Finance

Portugal
CMVM
CNC

Slovakia
Ministry of Finance

Slovenia
Slovenian Institute of Auditors

Spain
Banco de España
ICAC
PCAC

Sweden
Ministry of Justice

United Kingdom
Department of Trade and Industry

OBSERVERS

Iceland

Ministry of Finance

Norway

Financial Supervisory Authority

Ministry of Finance

European Institutions/Committees

European Central Bank (ECB)

Committee of European Banking Supervisors (CEBS)

Committee of European Securities Regulatory (CESR)

Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)

European Financial Reporting Advisory Group (EFRAG)

Commission

Pierre Delsaux, Director of DG Markt

Jürgen Tiedje, Head of Unit "F3: Accounting & Auditing",

Mikael Lindroos, Secretary to the ARC/F3

Annette Davis/F3

Thomas Scholz/F3

Arto Leppilahti/F3

Mike Thom/F3

Matthias Verbeke/F3

Alistair Wilson

Johan Debruyne/Eurostat