

## **SUMMARY RECORD**

### **MEETING OF THE ACCOUNTING REGULATORY COMMITTEE AND CONTACT COMMITTEE OF 8 NOVEMBER 2005**

M. Delsaux, Acting Director for Company Law & Corporate Governance, DG Internal Market and Services chaired the seventeenth meeting of the Accounting Regulatory Committee and the third meeting of the Contact Committee in 2005.

#### **1. VOTES OF THE ARC**

##### **VOTE ON AN AMENDMENT TO IAS 39 FINANCIAL INSTRUMENTS: RECOGNITION AND MEASUREMENT, CASH FLOW HEDGE ACCOUNTING OF FORECAST INTRAGROUP TRANSACTIONS CASHFLOWS**

**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.**

**The Amendment to IAS 39 – Cash flow hedge accounting of forecast intragroup transactions was accepted unanimously except by the one Delegation which was not present (see below). Small corrections were made to footnote 2 and the title of the annex.**

**As the meeting was starting one Delegation left the room because of the language regime. After the meeting, this Delegation wrote to the Chairman asking him to note that Member State's reservation on all the issues in today's agenda.**

#### **2. DISCUSSION AT THE MEETING**

The Chairman explained that Delegations could listen to and speak in English, French and German only. He explained that the meeting had had to be rescheduled at very short notice, and despite every effort, it had only been possible to obtain a very limited language regime. The Chairman expressed sincere regrets for this inconvenience, but thought this far preferable to having proceeded with the meeting on the date originally scheduled (28 October) which would have placed great difficulties on Delegations in view of the industrial action which took place on that same day.

#### **I. APPROVAL OF MINUTES OF THE ARC MEETING OF 8 JULY 2005**

The minutes were approved without any amendments.

#### **II. STATUS REPORT ON DRAFT REGULATIONS**

The Commission presented a document on the status of draft Regulations for the endorsement of IFRS. The table is reproduced below.

<b>Packages of Draft Regulations</b>	<b>IASB publications yet to be endorsed (IASB publication date)</b>	<b>Status</b>
A	<ul style="list-style-type: none"> <li>• Amendments to the scope of SIC 12 <i>Consolidation – Special purpose entities</i> (Nov 2004)</li> <li>• Amendment to IAS 39 <i>Financial Instruments: Recognition and measurement – Transitional and initial recognition of financial assets and liabilities</i> (Dec 2004)</li> </ul>	<ul style="list-style-type: none"> <li>• ARC vote 20/5/05</li> <li>• Publication in Official Journal on 25 October Regulation 1751/2005</li> </ul>
B	<ul style="list-style-type: none"> <li>• IFRS 6 <i>Exploration for and evaluation of mineral resources</i> (Dec 2004)</li> <li>• Amendment to IAS 19 <i>Employee benefits: Actuarial gains and losses, group plans and disclosures</i> (Dec 2004)</li> <li>• IFRIC 4 <i>Determining whether an arrangement contains a lease</i> (Dec 2004)</li> <li>• IFRIC 5 <i>Rights to interests arising from decommissioning, restoration and environmental rehabilitation funds</i> (Dec 2004)</li> </ul>	<ul style="list-style-type: none"> <li>• ARC vote 20/5/05</li> <li>• Publication in Official Journal planned for November</li> </ul>
C	<ul style="list-style-type: none"> <li>• Amendment to IAS 39 <i>Financial Instruments: Recognition and measurement – The fair value option</i> (Jun 2005)</li> </ul>	<ul style="list-style-type: none"> <li>• ARC vote 8/7/05</li> <li>• Publication in Official Journal planned for November</li> </ul>
D	<ul style="list-style-type: none"> <li>• Amendment to IAS 39 <i>Financial Instruments: Recognition and measurement – Cash flow hedge accounting for forecast intragroup transactions</i> (Apr 2005)</li> </ul>	<ul style="list-style-type: none"> <li>• ARC vote 8/11/05</li> <li>• Publication in Official Journal planned for February/March 2006</li> </ul>

E	<ul style="list-style-type: none"> <li>• IFRS 7 <i>Financial instruments: Disclosures</i> (Aug 2005)</li> <li>• IAS 1 <i>Presentation of financial statements: Capital disclosures</i> (Aug 2005)</li> <li>• Amendment to IFRS 6 <i>Exploration for and evaluation of mineral resources and</i></li> </ul>	<ul style="list-style-type: none"> <li>• ARC vote planned for 30/11/05 meeting</li> <li>• Publication in Official Journal planned for April/May 2006</li> </ul>
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	<p>IFRS 1 <i>First-time adoption of IFRSs</i> (Jun 2005)</p> <ul style="list-style-type: none"> <li>• Amendment to IAS 39 <i>Financial Instruments: Recognition and measurement</i> and IFRS 4 <i>Insurance contracts: Financial guarantee contracts</i> (Aug 2005)</li> <li>• IFRIC 6 <i>Liabilities arising from participating in a specific market – waste electrical and electronic equipment</i> (Sep 2005)</li> </ul>	
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### Translations

One Member State explained that the translations of the cash flow hedge were received only some 10 days before the ARC meeting.

That Member State added that it would be most useful if the Commission's translation service (DGT) could also make use of the expertise available in the review groups which exist in each Member State in the same way that IASCF had done. The Commission agreed to take note of this suggestion.

The Commission explained that the transfer of the translation work to DGT has caused some difficulties. The Commission will try to send the translations to Member States as early as possible and well before the next ARC meeting. However the deadline is rather short for the IFRS 7 as the next meeting has now been rescheduled to take place on 30 November which is earlier than originally foreseen.

Several delegations raised the issue of the substandard quality of the translations of the Amendment to IAS 39 – Cash flow hedge accounting of forecast intra-group transactions.

The Commission agreed to take the necessary measures to facilitate the communication between Member States and DGT to improve the quality of the translations. Inter alia, the Commission agreed to circulate the list of contact persons in DGT responsible for each language to enable the Member States to quickly resolve the specific problems through direct contacts.

### **III. FORMAL VOTE ON AMENDMENT TO IAS 39 FINANCIAL INSTRUMENTS: RECOGNITION AND MEASUREMENT, CASH FLOW HEDGE ACCOUNTING OF FORECAST INTRAGROUP TRANSACTIONS CASHFLOWS**

Several remarks were made in respect of the substandard quality of the translations. The Commission informed that the corrections to the language versions can still be made after the ARC meeting but before the final formal endorsement. The Commission will circulate the list of contact persons in DGT responsible for each language to enable Member States to resolve the specific problems by direct contacts with DGT (see above).

The Amendment to IAS 39 – Cash flow hedge accounting of forecast intragroup transactions was accepted unanimously, except by the one Delegation which was not present. Small corrections were made to footnote 2 and the title of the annex.

#### **IV. CONSISTENT APPLICATION**

The Commission presented a new working document on the creation of an informal Roundtable to contribute to consistent application and enforcement of IFRS in the EU following the discussions at the July meeting.

The Commission explained that for the time being it was presenting only tentative ideas. The prime purpose of the Roundtable is to gather diverging national and local interpretations or guidance given on IFRS. The Roundtable would group together those issues which give cause for common concern and recommend that these be taken up by IFRIC. As such it would also act as a filter mechanism. It would also act against any tendency to move towards 'EU interpretations' or 'EU guidance'. However, the Roundtable will not be making any interpretations. That task belongs to IFRIC and its Agenda Committee.

In addition, it could take stock of current cross-border coordination networks to promote the development of other new similar arrangements between auditors and the regulatory authorities in different Member States at working level. In particular, in cross-border situations similar networks could be developed at a sector level and involve preparers as well.

For the Roundtable to function effectively, the absolute number of participants should be kept to a minimum with some form of rotation of representation linked to the specific issues.

This Roundtable is foreseen to be a temporary mechanism created in view of the special circumstances which many companies are currently facing and will probably continue to face in the next year as well.

#### **Views from Member States**

On the need, several Member States expressed support. Three Member States were not fully convinced. Only one Member State expressed opposition. There was a general consensus that if it were to be established then it had to be very informal.

On the representation, several Member States thought that the composition as suggested in the Commission's paper did not adequately represent all interested parties. Two Member States considered that having 5 auditors and only 4 national standard setters (NSS) was unbalanced. Questions were also raised as to how the NSS participation (both fixed and rotating) should be chosen.

Three Member States thought that the ARC should be consulted before any recommendations for referral to IFRIC made by Roundtable were transmitted. Another by contrast thought that ARC involvement could turn the Roundtable into a formal structure.

One Member State and CEBS thought that other level 3 committees (e.g. banking, insurance committees) should also be involved.

On its functions, there was general support for the task of collating and filtering information for referral to IFRIC. By contrast on the function of promoting networks, such as between auditors and regulators at a cross-border level (and even at a sector level) there was little enthusiasm. One Member State and CESR thought that this risked compromising the independence of regulators

On its operation, a Member State questioned the need for a physical presence and thought that much could be carried out through electronic interchanges.

On publishing the output, one Member State thought that given the selective representation of Roundtable participants, the information on the outcome of the discussions should not be restricted to Roundtable participants. CESR thought publications needed to be managed carefully as they risked being seen as interpretations.

On the period for the Roundtable's existence, another Member State thought that an estimate should already be made at this stage.

The Chairman concluded that the Commission would further reflect on the comments made today and present a new paper at the next meeting.

## **V. CONVERGENCE AND EQUIVALENCE BETWEEN IFRS AND THIRD COUNTRY GAAP, IN PARTICULAR US GAAP**

### *Convergence and the IASB work program*

The Commission Services have been asked by the IASB to comment on its work program for the coming years. The Commission Services are preparing an answer to the IASB, which will be sent to Member States. In recent speeches the Commissioner has commented on the work program, and these comments will be reflected in the formal letter.

The Commission highlighted the importance of a period of relative stability having seen the adoption of a large number of standards in the period leading up to 2005. The convergence objective is important, but it should not overshadow the needs of the 8000 companies applying IFRS for the first time in 2005. Convergence should be a two-way street and must not destabilise the IFRS platform in Europe. Convergence is not an invitation to standard-setters to try and advance the theoretical frontiers of accounting. The prioritisation in the work program should be based on clear practical need. The Commission furthermore wants see closer focus on the conceptual framework project as it is crucial in ensuring consistency between standards currently in preparation.

### **Views from Member States**

Member States generally expressed agreement with the Commission statements. Two Member States emphasised that there had to be a clear practical need. One Member State considered that rushing towards many new future standards clearly contradicted the objective of having a period of stability. There were also problems with the methodology. Proper field testing had to be carried out and completed before embarking on the creation of new standards. There were already indications of problems of substance with certain draft standards in the pipeline (e.g. the EFRAG paper had already indicated problems with the performance reporting issue). This Member State also commented on the lack of EU presence and input to the IASB conceptual framework project. This Member State furthermore believed that the comment letter from the Commission must contain a clear message to the IASB, to EU companies as well as to the US that the EU priorities are in the following order: stability in the short term and addressing practical issues, recognition of IFRS, and the substantive issues raised by future standards (including methodology and related governance issues). There is also a need for the ARC to regularly review the progress of the IASB work program.

### *Equivalence*

The Commission indicated that although the issue of equivalence is a formal responsibility of the European Securities Committee which will be meeting next week, it nevertheless wants to fully associate the ARC in these discussions.

The Chairman gave an overview of the current status of the Commission's preparations for the equivalence decisions relating to third country GAAP.

The Commission is currently reflecting on this situation to determine what national GAAPs would be considered equivalent under the Prospectus and Transparency Directives. This decision has to be taken before 1 January 2007. During recent informal contacts, both the US and Japan have indicated that taking on board CESR's advice would create plenty of problems for their firms in Europe and in turn create a disruption in the market. Such a decision could also jeopardise the smooth achievement of the SEC roadmap towards dropping the US GAAP reconciliation requirement. The Commission is currently analysing the issue but no decision has as yet been taken. One option would consist of deferring the equivalence decision and so prolonging the status quo until 2009. This would mean that US GAAP, Canadian GAAP and Japanese GAAP statements would be accepted in Member States until that date. The advantage of this option is that it would allow a more suitable timeframe for fully assessing and determining whether US GAAP was equivalent to IFRS. The other option would be to take on board CESR's advice.

The Commission is currently consulting major stakeholders, and there will be further exchanges with Member States before a decision is taken.

### **Views from Member States**

One Member State considered that there had to be clear reciprocity between recognition of US GAAP by the EU and recognition of IFRS by the US. Deferring the EU's equivalence decision, thus prolonging the status quo until 2009 would, in this Member State's view, simply continue an imbalance to the detriment of European companies, since reconciliation requirements would be imposed on EU companies only, and interpretations of IFRS made in the US only, although they do not apply IFRS. These SEC decisions would apply in the EU, which would not be acceptable.

This Member State also believed that any equivalence decision that would not now, at the historic time of the first implementation of IFRS in Europe, be clearly reciprocal, as was the original intent, would not be in the European public interest. We should also have other important trading partners fully involved.

Another Member State raised the concerns in respect of greater resources needed by enforcers to handle corporate financial reports prepared under different GAAPs rather than one single GAAP. Postponing the decision would therefore mean greater resources if investor protection is not to be weakened.

This Member State explained that there are companies which prepare accounts under US GAAP but which are not regulated by the SEC. CESR agreed and because of this fact thought that postponing the decision would create loopholes in the Prospectus and Transparency Directives.

Another Member State thought that postponing the decision would align the timetable with the US and add weight to our position in our discussions with the SEC.

## **VI. RELATIONSHIP BETWEEN ENDORSED IFRS AND THE 4TH COMPANY LAW DIRECTIVE (IN PARTICULAR WITH REGARD TO AMENDMENTS TO ARTICLE 42A)**

The Commission explained the need for an amendment to the Directive.

Three Member States expressed concern about the flexible nature of the wording of the reference to IAS Standards in the Directive. They would have preferred the modification to be in the form of a far more restrictive and fixed wording explicitly limited to the current IAS 39 Fair Value Option (FVO). Another Member State was opposed to any reference to any IAS or IFRS and wanted the conditions for fair valuation to be written in full into the 4<sup>th</sup> Directive.

Another Member State had submitted its comments where it requested additional disclosures to be mentioned in the Directive.

The Commission explained that the difficulty with inserting an inflexible modification (which in this case was specifically limited to IAS39 or specific disclosure requirements) would be that the Directive would have to be frequently modified in the future whenever standards are updated. This would be a time consuming process. Moreover, the Directives are not meant to be accounting standards, but instead they have the purpose of serving as an enabling legislation. Therefore it is neither necessary nor desirable to place highly specific provisions in the Accounting Directives. In any case the endorsement procedure already provides the safeguard against unacceptable accounting standards and therefore the control over the Directive is maintained, regardless whether or not there is a flexible reference to IAS standards.

The Chairman concluded that the Commission would now proceed and present its proposal to the EP rapporteur, together with the conclusions of the discussion at the ARC.

## **VII. TOWARDS A STANDARD REFERENCE FOR IFRS COMPLIANCE IN THE EU**

The Commission introduced its paper.

One Member State had no problem with the proposed formulation for compliance with IFRS as adopted in the EU. Any announcement by the Commission should make an appropriate reference to the Communication it published in 2003.

One Member State supported the Commission's initiative to improve clarity. However, the term "for use" was found too restrictive. Actually, the accounting standards were also intended to be used beyond EU borders by European companies listed on non-EU markets. The recognition of accounting standards by third countries would serve that objective. Removing the term "for use" would send a positive signal to European companies. No ARC member objected to this Member State's proposal to remove the term "for use". The standard formulation would read "in accordance with International Financial Reporting Standards as adopted in the EU".

EFRAG raised the question of the date of implementation of the amendments to IAS 39. It was crucial to get amendments to IAS 39 endorsed and applicable in time for the 2005 financial statements.

Mr Wilson echoed EFRAG's concern about possible delays in the application of IFRSs in the EU and lack of parallelism between the IASB timetable and the EU timetable for endorsement and publication of IFRSs. The upcoming IASB Technical Correction 1 (which affects transactions in foreign currency) will have retroactive effect and pose a real challenge to the

EU endorsement process. Any mismatch between the IASB and EU timetable would have a significant impact on European companies, especially SEC registrants –which are required to comply with full IFRS- and companies that had followed calls by CESR to use standards scheduled for adoption by IASB by end of this year in their interim reports. The EFRAG representative shared these concerns.

One Member State noted that the IAS Regulation provides some flexibility to companies as regards the application of the non-yet adopted IFRSs. There was a need to identify the different situations and to make a distinction between (1) what is mandatory and what is voluntary (2) between the notes and the audit report.

Another Member State suggested focusing on three main topics: (1) what formulation we actually want (2) what to do with standards that have not yet been published; (3) how to treat double compliance. This Member State took the view that the standard formulation should make reference only to the EU framework. Introducing a reference to double compliance would undermine the political message about the EU accounting framework.

The Chairman undertook to present a document at the next meeting. The document would summarize the positions of ARC and look at the issue of timetable mismatch between the IASB and EU process.

**VIII. MISCELLANEOUS**

*Technical Corrections*

The Commission explained that those Technical Corrections adopted by the IASB which do not constitute editorial corrections should be endorsed in the EU through the normal comitology procedure applicable to IFRSs. Due to their nature such Technical Corrections are therefore not eligible for a lighter procedure. Depending upon the number and frequency of Technical Corrections, an effective endorsement procedure will need to be defined.

*Relationship between the Seventh Directive and IAS 27*

A Member State asked the Commission to clarify the relationship between the Seventh Directive and IAS 27 *Consolidated and separate financial statements*, which contains the requirements for the scope of consolidation. This is one aspect of the wider issue of the relationship between the Accounting Directives and IFRS generally. To address this issue, the Commission, in November 2003, published a document\* on the relationship between the Directives and the IAS Regulation which discusses the requirements for the production of consolidated financial statements. This document is available on the Commission’s website.

Relevant extracts from this document are reproduced below.

2.2.2. Definition of "consolidated accounts"  
... The determination of whether or not a company is required to prepare consolidated accounts will continue to be made by reference to national law transposed from the Seventh Council Directive.

\* “Comments concerning certain Articles of the Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards and the Fourth Council Directive 78/660/EEC of 25 July 1978 and the Seventh Council Directive 83/349/EEC of 13 June 1983 on accounting”, November 2003.

... Where these circumstances (as transposed into national law), require the preparation of consolidated accounts, the requirements of the IAS Regulation apply to those accounts.

... As noted above, it is the national law derived from the Accounting Directives that determines whether or not consolidated accounts are required.

... However, if consolidated accounts are so required, it is the requirements of endorsed IASs that will dictate the scope of consolidation and, therefore, which entities should be included in those consolidated accounts and how they should be included.

One Member State noted that, with reference to the better regulation and the reduction of the administrative burdens, it is necessary to have a consolidated form of the Directive 1725/2003. The Commission took note of it.

### ***Next meeting***

The next ARC meeting was scheduled to take place on 30 November 2005.

# ACCOUNTING REGULATORY COMMITTEE AND CONTACT COMMITTEE

Meeting of 8 November 2005

## PARTICIPANTS' LIST

### Austria

Permanent Representation to the EU

Ministry of Finance

### Belgium

Fod. Economie

Commissie Boekhoudkundige Normen

### Cyprus

Permanent Representation to the EU

Ministry of Finance

### Czech Republic

Ministry of Finance

### Denmark

Danish FSA

Danish Commerce and Companies Agency

### Estonia

Ministry of Finance

### France

Conseil National de la Comptabilité (CNC)

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

### Finland

Ministry of Trade and Industry

### Germany

Bundesministerium des Justiz

### Greece

Greek Accounting and Auditing Oversight Board

Ministry of Economy and Finance

### Hungary

Ministry of Finance

### Ireland

Department of Enterprise, Trade and Employment

Institute of Chartered Accountants in Ireland

**Italy**

**Ministry of Economy and Finance  
CONSOB**

**Latvia**

**Ministry of Finance**

**Lithuania**

**Ministry of Finance**

**Accounting Institute**

**Luxembourg**

**Ministère de la Justice**

**Malta**

**Accounting Board**

**Ministry of Finance**

**The Netherlands**

**Ministry of Justice**

**Ministry of Finance**

**Poland**

**Ministry of Finance**

**Portugal**

**CMVM**

**Slovakia**

**Ministry of Finance**

**Slovenia**

**Permanent Representation to the EU**

**Spain**

**Banco de España**

**ICAC**

**Sweden**

**Ministry of Justice**

**United Kingdom**

**Department of Trade and Industry**

## **OBSERVERS**

### **Iceland**

**Icelandic Mission to the EU**

### **Norway**

**Financial Supervisory Authority**

### **Romania**

**Ministry of Public Finance**

### **Bulgaria**

**Ministry of Finance**

### **European Institutions/Committees**

**European Central Bank (ECB)**

**Committee of European Banking Supervisors (CEBS)**

**Committee of European Securities Regulatory (CESR)**

**European Financial Reporting Advisory Group (EFRAG)**

### **Commission**

**Pierre Delsaux, Director of DG Markt**

**Piotr Madziar, Head of Unit "F3: Accounting",**

**Ulf Linder, Deputy Head of Unit "F3 Accounting**

**Remo Croci, Secretary to the ARC/F3**

**Annette Davis/F3**

**Arto Leppilahti/F3**

**Michel Martino/F3**

**Lars Vind Sorensen/F4**

**Johan Debruyne, Eurostat**

**Allister Wilson**