

SUMMARY RECORD

MEETING OF THE ACCOUNTING REGULATORY COMMITTEE AND CONTACT COMMITTEE OF 26 SEPTEMBER 2006

Mr Madziar, Head of the Accounting Unit, DG Internal Market and Services chaired the twenty-second meeting of the Accounting Regulatory Committee and the fourth meeting of the Contact Committee in 2006.

DISCUSSION AT THE MEETING

I. APPROVAL OF MINUTES OF THE MEETING OF 7 JULY 2006

As one Member State provided comments but was asked by the Commission to present them in writing, the Minutes could not be approved today.

II. CONSISTENT APPLICATION - ROUNDTABLE

The Commission reported on the discussions which took place at the Roundtable meeting of 20 September and the work for the next meeting in November.

The issue of reassessment of embedded derivatives (IFRIC 9) was identified as being of common concern and warranted referral to IFRIC. However, there was a general consensus that before raising it with IFRIC, it needed to be broadened to encompass the treatment of all financial instruments in a business combination rather than simply embedded derivatives.

Two other issues were identified and confirmed as also being of common concern. These were the issue of de facto control and that of common control transactions. There was a broad consensus that, in view of their scope and significance, they should be raised with the IASB itself rather than IFRIC.

Another issue raised was the accounting for the treatment of Waste of Electrical and Electronic Waste, which will be the subject of a further discussion at the next meeting.

Views from Member States

One Member State thought that, if there are no solutions to these matters forthcoming within the next 12 months, the EU should consider alternative ways to help business in this regard. Another Member State agreed and asked what the Commission proposed to do to address this slow process.

The Commission recalled that European alternatives to IFRIC were not the way forward. The Commission suggested continuing discussion on this particular point during the next agenda item (regarding the procedures and due process of IFRIC).

CESR emphasised that de facto control and common control transactions were of particular importance and supported any request to have these put on the IASB agenda. One Member State agreed and explained that the IASB's public statement which it had made last year in an

attempt to clarify the issue of de facto control had actually been counter-productive and had complicated things further.

III. IFRIC WORKING PROCEDURES AND DUE PROCESS

The Commission presented its draft comment letter to the IASCF regarding working procedures and due process of IFRIC. The letter took account of discussions held at the previous ARC meeting, a draft comment letter by EFRAG and additional comments received from Member States in advance of today's meeting.

Views from Member States

There was general support for the Commission's letter and the general request for increasing transparency of the full process, but the wording of the letter should be strengthened in certain parts. Serious criticisms were made but there was no majority view to support the idea that the Agenda Committee should be eliminated. Instead Member States stressed that the Agenda Committee is needed to ensure efficiency, but the process should be made transparent. One Member State suggested that the letter should stress that in the context of the Council declaration on IASB financing there are certain provisions to improve communication with stakeholders, due process, develop impact assessment and field testing and ensure proper representation on IASB/IFRIC committees. One Member State agreed with the comments but disagreed that the letter should request a formal response or explicit follow-up.

In addition, several Member States suggested that the letter should request IFRIC to be clear in its Handbook that, although the reasoning for rejections is very helpful in practice, IFRIC rejections fall well short of the status of actual interpretations (IFRICs) because they are not subject to the same due process and therefore are not to be endorsed into European law. It should also be mentioned that IFRIC should not introduce new accounting principles via interpretations of existing standards, IFRIC should elaborate on the reasoning (Basis for Conclusions) and should clarify that there should only be prospective impact of application.

Another Member State explained that we should make sure that there are no conflicting interpretations of IFRS on a global basis. Two Member States and CESR believed that when IFRIC rejects an issue for interpretation, the response should not simply be that the standard is clear. The reason why the standard is clear should also be given. The Commission letter should also request a clarification regarding the role and interaction between IFRIC and the IASB.

CESR commented that membership of the Agenda Committee seemed to be limited to persons from the 'Big 4' accountancy firms. CESR emphasised however, that the Agenda Committee itself did not take the decision (on whether to accept an issue for interpretation or reject it). CESR thought that rejections should be subject to a due process as well.

At the close of the discussion the Commission and Member States agreed to make the following changes to the letter subject to review by ARC Members before it is submitted to the IASCF:

- The Agenda Committee is necessary as it acts as a filter mechanism and is therefore supporting the efficiency of IFRIC, but the working procedures have to be transparent and the composition well balanced between different stakeholders;

- IFRIC rejections have no legal status and are not within the scope of the IAS Regulation (EC) No 1606/2002;
- The issue of retrospective impact should be discussed in the Roundtable using concrete examples;
- There should be a clear reference to the Council Declaration on IASB financing and the recommendations made regarding improving IASB governance.

IV. EQUIVALENCE BETWEEN IFRS AND THIRD COUNTRY GAAP, IN PARTICULAR US GAAP

The Commission updated Member States on recent developments in this area and recalled that in the latest working documents transitional exemptions for two years are now under consideration in the European Parliament and European Securities Committee for:

- third country issuers using Canadian, Japanese or US GAAP, and;
- issuers of other third countries, whose financial statements contain an explicit and unreserved statement that they comply with IFRS, and;
- issuers of other third countries whose financial statements do not contain such a statement but whose country is publicly committed to converging to IFRS and already has a work programme to this effect. Issuers wanting to use this exemption need to provide satisfactory evidence of this to the relevant Competent Authority.

CESR was invited to describe developments from its perspective. CESR was happy with the proposals set out in the latest working documents, and, on the premise that these would be adopted by the EU, its new working group on equivalence would be focusing its work on three aspects:

1. Identifying those third country GAAPs used by third country issuers listed in the EU;
2. Identifying which of these have convergence projects to IFRS, and;
3. Devising a set of criteria for determining which of these GAAPs should benefit from the prolongation.

CESR also advised that the groundwork would start for the assessments and decisions that will be taken with regard to the situation as from 2009.

CESR also gave a presentation on the CESR-SEC Work Plan signed on 2 August and the newly created Equivalence Working Group:

- CESR and the SEC published a joint Work Plan on 2 August. In practical terms it defines the operational and supervisory cooperation between regulators to ensure consistent enforcement of IFRS and US GAAP. It should help in getting consistent enforcement decisions on the use of IFRS in the US and US GAAP in Europe and avoid conflicting interpretations by EU regulators and SEC.
- The first meeting between SEC and CESR to discuss the practical implementation of this Work Plan is scheduled on 25 October.

Views from Member States

One Member State repeated its concerns which it had already made in previous meetings whilst noting that the latest text was a big improvement. However, this Member State and

another also expressed the wish that the text should be more specific as to what would happen in 2009 and setting out the conditions in order to reduce uncertainty.

Another Member State thought that the EU should be in full agreement that either the reconciliation requirement is to be dropped by 2009 or we impose our own requirement from that date. If this is not the case we need to have a debate. This Member State also referred to its request (made at the previous meeting) for a note from the Commission's legal service supporting the proposals.

One Member State expressed full support for the proposals set out in the latest working documents.

Two Member States welcomed CESR's work. Another Member State asked what the dialogue with the SEC on SEC decisions would actually mean in practice. In reply CESR explained that the SEC would discuss with CESR before taking any restatement decision.

One Member State stressed that the Commission (or EU) should be proactive and try to influence the US so as to create similar conditions on both sides. This Member State suggested that some parts of the text should be reworded with this in mind.

Two other Member States explained that we were putting things back to 2009 on the basis of a vague promise from the US that it would cease the reconciliation requirement in 2009.

One Member State sought a clarification of the need for categorising the third country GAAPs into three groups. This Member State also thought that users of the first group of GAAPs (Canadian, Japanese or US) seemed to face stricter rules. The Commission explained that this distinction was necessary because CESR had not as yet assessed other third country GAAPs. Another Member State thought it inappropriate to group Canadian, Japanese and US GAAP together as the circumstances for each were very different.

In reply to a question from another Member State the Commission explained that work on what constituted 'equivalence' and the 'equivalence mechanism' would be carried out over the next two years. The Commission would consult CESR on these matters. Member States would also be consulted and invited to provide views.

V. RELATIONSHIP BETWEEN THE IAS REGULATION AND THE 4TH AND 7TH COMPANY LAW DIRECTIVES

The Commission presented a document addressing the points raised during the discussions on this matter at the last ARC meeting.

One Member State explained that the key question was which accounting rules apply to individual company accounts. This Member State found that the Commission's document did not resolve the issue. Another Member State welcomed the work done by the Commission to clarify this point and offered to transmit to the Commission its drafting points, which may also address the concerns of the first Member State. Another Member State asked whether a company preparing both individual and consolidated accounts under IFRS could issue the individual accounts before the consolidated accounts.

Another Member State found the Commission's document to lack clarity. Was it the case that listed companies which do not have to prepare consolidated accounts do not have to apply IFRS either? The Commission referred to Articles 4 and 5 of the IAS Regulation.

The discussion then moved on to specific articles in the 7th Directive. CESR raised the question regarding the interpretation of the 7th Company law Directive, notably how to determine whether or not an issuer (on a regulated market) needs to prepare consolidated financial statements. The question was whether the material aspect in Article 13 of the Seventh Directive has to be taken into account. The Commission explained that:

- The determination of whether or not a company is required to prepare consolidated accounts is made by reference to national law transposed from the Seventh Directive.
- Where national law (derived from the Seventh Directive), requires the preparation of consolidated accounts, the requirements of the IAS Regulation apply to those accounts.
- Article 13 of the Seventh Directive is only relevant for the scope of consolidation where the issuer is not required to apply the IAS Regulation. Article 13 is not relevant, for issuers already within the scope of the IAS Regulation, when deciding the scope of the consolidated financial statements: instead the requirements of IFRS are used.
- Neither does Article 13 determine whether the consolidated accounts should be prepared in the first place. In other words: the consolidated accounts need to be prepared if the criteria of Articles 1, 2, 3(1), 4, 5-9, 11 and 12 so require.

In addition, two Member States asked for clarity on when one has to consolidate. One of these Member States asked whether one still has to prepare consolidated accounts in cases where the parent company only has one subsidiary which is 'immaterial'.

Follow up

The Commission asked Member States for comments in writing on the ARC document presented today. The Commission will prepare a new version of the document after it receives comments from Member States. If deemed necessary the Commission will return to this issue at the next ARC meeting. One Member State requested Commission to prepare an additional document in order to clarify its position on the issues described in the previous two paragraphs. The Commission agreed to do this.

VI. IFRIC 10 FINANCIAL REPORTING AND IMPAIRMENT

EFRAG made a presentation of the new IFRIC 10. The proposal for endorsing IFRIC 10 is likely to be presented at the next ARC meeting.

VII. MISCELLANEOUS

Standards Advice Review Group

The Commission gave an update on the stage for recruitment of suitable experts. The Commission signalled the lack of candidatures from the new Member States and Scandinavian Member States.

Update on the project of consolidation and language revision of endorsed IFRS

The Commission gave an update on progress on the consolidation and language revision of endorsed IFRS:

- The consolidation will be achieved by publication (and endorsement, following the normal due process), of a new Regulation, which will supersede the previous Regulations. This will enable constituents to refer to only one Regulation containing all endorsed IFRS.

- The Commission will also take the opportunity of this consolidation project to correct translation errors.
- Before the Commission can proceed with the translation of the consolidated version, and fixing the translation problems, the Commission's translation service (DGT) needs to decide how it will proceed with the translation of the IFRS in future. To ensure the optimal quality and consistency with the IASB publications, especially for the consolidated version, a proper revision system needs to be set up.
- DGT has recently decided to opt for an external translation contract for translation and language revision. The procedure has already started and the contract should be in place in the beginning of 2007. As soon as it is operational the Commission will be able to proceed with the translation and revision of the consolidated version.

Initiation of a discussion on possible revisions of the Accounting Directives (concerning SME accounting in particular)

The Commission signalled its intention to open a discussion with Member States at the next ARC meeting on the possible need for revision of the 4th and 7th Company Law Directives ("Accounting Directives") in particular in relation to accounting for Small and Medium sized Enterprises.

IAS 39 Carve- out

One Member State asked if the Commission could give an update on the work underway with a view to eliminating this one remaining carve out. The Commission agreed to do this at the next ARC meeting.

Publication of ARC documents

In accordance with the EU's policies on transparency, the Commission indicated its desire to make future ARC documents publicly available (i.e. be placed on its web site) as a matter of standard practice. One Member State expressed concerns in relation to the publication of interim working documents. The Commission emphasised that these would only be documents which have been finalised and Member States would be given the opportunity to raise objections beforehand. One Member State objected in principle and said that such a policy had to be decided consistently in a horizontal manner (i.e. across all committees at this level) and not only the ARC. In this regard, this Member State would like to see a tracking system following up on (published) documents and Commission letters to outside parties drafted in consultation with the ARC.

IASB funding

One Member State raised this issue and asked what advances had been made since the Council declaration in July which had at that time been treated as a matter of urgency. The Commission agreed to give a full update at the next ARC meeting.

Next meeting

The next ARC meeting was planned for 24 November.

ACCOUNTING REGULATORY COMMITTEE AND CONTACT COMMITTEE

Meeting of 26 September 2006

PARTICIPANTS' LIST

Austria

Ministry of Justice

Belgium

Commissie Boekhoudkundige Normen

FOD Economie

Cyprus

Czech Republic

Ministry of Finance

Denmark

Danish FSA

Commerce and Companies Agency

Ministry of Economic and Business Affairs

Estonia

Estonian Accounting Standards Board

France

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

Finland

Ministry of Trade and Industry

Germany

Bundesministerium des Justiz

Greece

Ministry of Economy and Finance

Hungary

Ministry of Finance

Hungarian Financial Supervisory Authority

Ireland

Department of Enterprise, Trade and Employment

Italy

Ministry of Economy and Finance

CONSOB
ISVAP
Bank of Italy

Latvia
Ministry of Finance

Lithuania
Ministry of Finance

Luxembourg
Ministère de la Justice
Commission de surveillance du secteur financier

Malta

The Netherlands
Ministry of Justice
Ministry of Finance

Poland
Ministry of Finance

Portugal
CNC
CMVM

Slovakia

Slovenia

Spain
Banco de España

Sweden
Ministry of Justice

United Kingdom
Department of Trade and Industry

OBSERVERS

Iceland

Ministry of Finance

Liechtenstein

Norway

Ministry of Finance

Romania

Ministry of Public Finance

Mission to the EU

Bulgaria

Ministry of Finance

European Institutions/Committees

Committee of European Banking Supervisors (CEBS)

Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)

Committee of European Securities Regulators (CESR)

European Financial Reporting Advisory Group (EFRAG)

Commission

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