

SUMMARY RECORD

MEETING OF THE ACCOUNTING REGULATORY COMMITTEE AND CONTACT COMMITTEE OF 24 NOVEMBER 2006
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Mr Madziar, Head of the Accounting Unit, DG Internal Market and Services chaired the twenty-third meeting of the Accounting Regulatory Committee and the fifth meeting of the Contact Committee in 2006.

DISCUSSION AT THE MEETING

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

The Minutes were approved.

II. APPROVAL OF MINUTES OF THE MEETING OF 26 SEPTEMBER 2006

The Minutes were approved.

III. SIMPLIFICATION OF ACCOUNTING RULES FOR SMALL AND MEDIUM-SIZED ENTERPRISES – DISCUSSION OF A POSSIBLE REVISION OF THE 4TH AND 7TH DIRECTIVES

The Commission presented a first paper on the simplification of accounting rules for small and medium sized enterprises. The presentation covered both the overall intention and environment of this upcoming initiative as well as some initial technical ideas.

The Commission explained the purpose of today's paper, which was to initiate an informal discussion regarding what could be done in respect of simplification, and in particular to seek input from Member States. The current bases for SME accounting are the 4th and 7th Company Law Directives, which mainly focus on incorporated bodies with options, used by some Member States, to extend these to other business organisations such as partnerships. A definition of what constitutes "small" and "medium" can be found under article 11 and 27 of the 4th Directive.

The reason for discussing this issue now is the key objective of the Barroso Commission which seeks to simplify and reduce the administrative burden for EU companies by 25%. This should mean removing burdensome rules as well as replacing old rules by new more relevant ones. Another important reason to start the debate is the discussion on SMEs in Parliament as well as the upcoming IASB (draft) standard on SME accounting. Further arguments can be seen by the fact that there had been various amendments since the inception of the two Directives in 1978 and 1983. There may be a need for further amendments.

In short, the current requirements in the Company Law Directives are to prepare the annual accounts, the annual report, the consolidated accounts (when the conditions are met), to have these audited and filed. This could be seen as the administrative work or 'burden' on companies.

As the Directives represent the "minimum harmonisation", the question: *what accounting information is important for SMEs?* might be asked. Can it be argued that SMEs have different needs compared to "big" companies?

Several Member States have specific rules / an accounting standard for SMEs like Denmark, France, Netherlands and the UK. Other States, like Germany, are currently working on modernising their national GAAP.

The SME project of the IASB focuses on companies with about 50 employees. In many aspects it is currently being criticised by stakeholders. The IASB SME standard cannot be adopted by EU via the IAS Regulation (Regulation EC N° 1606/2002).

In the meeting the Commission presented some initial ideas on potential ways of achieving simplification for SMEs in the Company Law Directives. There are basically five different options available for reducing the administrative burden for SMEs (as illustrated in the paper):

1. Raising the thresholds
2. Extending the exemptions
3. Amending or removing options
4. Simplifying accounting requirements
5. Reducing the number of disclosure requirements

A draft questionnaire was annexed to the paper. Member States were asked to give their views on the next steps of the project.

Views from Member States

A number of Member States expressed general support for the initiative whilst indicating that these were only preliminary tentative views. Some Member States requested further details. Representatives from several Member States stressed they had had no time for consultation with stakeholders. Another reserved the right to send written comments to the Commission. In general the project to reduce the administrative burden of SMEs was welcomed, although cost reduction cannot be the only goal. It will be important to identify the target areas for simplification and these have to be discussed with stakeholders. One Member State thought that this whole project was being carried out in too short a timeframe.

Four Member States believed that the simplification initiative should be limited to SMEs. Four others took the opposite view. Another had understood that the paper was only focusing on SMEs and if the project was to go beyond that it needed to reflect on this point. Another Member State considered the Directives (especially the 4th) to be totally

out of date and favoured extending this project to a thorough review of the Directives and for all companies, not only SMEs.

Several Member States thought that there was a need to identify users and the purpose of accounts. One Member State thought it was important to identify possible differences between external and internal users. There was general recognition of the need for full consultations with stakeholders.

Another Member State referred to the heavy administrative load on SMEs in dealing with tax matters and, in the case of subsidiaries, the extra work involved in providing the relevant financial information to the parent company for inclusion in the consolidated accounts.

Another Member State raised objections to, in its view, a fast track approach. Additionally it was only 3 years since the last changes to the Directives were made, so the statement that there were no material changes since inception of the Directives approximately 25 years ago was not correct. A clear vision was needed on how to go forward. This was missing in today's paper which was simply a mixture of possible options. This Member State thought one way to reduce the administrative burden could be to render the requirements for publishing accounts more flexible.

Another Member State referred to the experience of the project of harmonising tax law for consolidated financial statements. However, the timeline of that project clearly demonstrates the difficulty of dealing with tax matters. The fact that the most recent amendments to the Directives were only 3 years ago should not be overstressed as these were not part of a wide scale review. In particular, there have been developments in the area of accounting for financial instruments (IAS 39), so the possibility to achieve simplification in this area for SMEs could be envisaged.

Another Member State welcomed the objective of reducing the administrative burden (including elements related to tax) as it just had gone through this process in its own country (20 % reduction). To the extent of an administrative burden being caused by other types of reporting (e.g. statistical) it could partially be addressed through the use of XBRL (eXtensible Business Reporting Language). In this respect it might be useful to distinguish between small and medium sized companies. This Member State was opposed to any waiving of publication obligations as part of the simplification exercise. Publication is a key element of corporate responsibility.

Another Member State said that this project is very important as this Member State had a lot of SME companies. Easing the administrative burden would mean persuading tax authorities to change their regulations which might be very challenging.

Another Member State made three general remarks. The first focussed on simplification in general. It was very important to determine the strategy and purpose as well as identify the project's boundaries. As, at some point in the past, there had been the need for every single item which is included in the Directives today, before considering deleting any of these it was necessary to reflect on what was being given up and do a cost-benefit analysis. Additional remarks by this Member State related to the difficulties with the tax linkage, the importance of harmonisation and whether subsidiaries should be included in the scope of the project. The timetable should allow enough time for careful consideration.

Secondly, this Member State took the view that certain proposals in the discussion paper had nothing to do with SME accounting and should therefore not be mentioned.

Thirdly, this Member State commented on the IASB's SME project. This Member State thought that the IASB's project did not bring any simplification, and should be considered inappropriate for that reason. In conclusion this Member State cautioned against changing priority from transparency to simplification and risk losing many objectives that were still considered paramount recently in the EU, suggesting a measured and well reasoned approach.

Another Member State thought that, as a starting point, there needed to be a clear understanding of the purpose of accounting and the structure of company accounts in terms of SMEs to satisfy the user needs. This Member State thought it important to distinguish between the financial burden and the administrative burden. There are various ways of achieving simplification, which are not necessarily being achieved by (all) the proposals mentioned in the paper, e.g. the deletion of some disclosure requirements. The needs of third parties like credit agencies would have to be considered as well.

Another Member State stressed that the project needed to be analysed in greater depth. If the final result were to be a reduction of the administrative burden by 25 % that would be excellent. This Member State believed that such proposals therefore had to be evaluated (i.e. a cost-benefit analysis needed to be made). As for the linkage to the taxation project, this cannot be ignored but, because of different timeframes, it could prove difficult to align the two. There was also a risk of inadvertently breaking an existing linkage between tax accounts and accounts for other users which currently exists in some Member States. This would create a new burden: having to prepare two sets of accounts.

Another Member State welcomed the Commission initiative and also noted the possible interaction of this project with taxation. Although subsidiaries are very relevant to the debate, it might be wise to treat those separately in the discussions.

Another Member State recommended a consultation process in all Member States with the interested parties to determine whether the scope should be only on SMEs, or extend to subsidiaries or cover all companies. It was argued that going forward the approach should be prudent and well balanced. Tax was seen as very important in general, but as the tax authorities also have other possibilities for obtaining relevant information from companies they are in a different position to ordinary users.

Another Member State emphasised that it would be relevant to discuss whether the accounting rules for the SME's should be regulated by the Directives at all or if they should be a matter of national regulation only.

Two Member States advised that reducing administrative burdens were already existing projects in their respective countries.

One Member State recalled that the reflection on the need to further adjust the thresholds for small and medium enterprises originated during the negotiation of Directive 2006/46 amending the 4th and 7th Directive.

This Member State further recalled that the thresholds have been increased under Directive 2006/46. However, the Commission during the adoption procedure with the European Parliament made a commitment to take full account of the period elapsed since

the extraordinary revision of the thresholds under Directive 2006/46 when examining the next ordinary revision of such thresholds and to conduct the overall assessment of the economic and monetary trends in the European Union (this Member State referred to Commission statement of 11 May 2006, n° Cion prop: 14119/04 DRS 36 CODEC 1191 / CODEC 361 DRS 9).

This Member State understood the Commission statement to mean that there was solely an issue relating to the need to revise the thresholds defining small and medium enterprises but in no case to undergo a full revision of the 4th and 7th Directive.

CEBS made the point that it would be worth keeping in mind that financial statements should contain reliable and relevant information, and we should not simply focus exclusively on reducing the administrative burden. It was further argued that publicly accountable companies should or might be scoped out.

The Chairman concluded that, further to the comments made today, some elements of the questionnaire (including whether the project could be extended at some later stage) will be revised. The revised questionnaire would be sent to Member States by the middle of next week. Member States were asked to send their final comments on the revised questionnaire by 6 December, so that the finalised questionnaire could be sent out to them by 8 December.

The Chairman then summarised the following elements:

- Need to analyse information needs.
- Need to see how we could ease transmission of information (administrative organisation, XBRL ,...).
- Need to classify targeted entities between different layers.
- IASB SME project not adapted to the needs of SMEs.
- This is not a fundamental review of the Directives
- The initiative will focus on SME, but the option of a wider scope remains open at least for the time being.
- Regarding the role of tax accounting, which some Member States had also raised, the Commission will also take note of any ongoing work in this area of the tax domain.

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

The Commission presented three papers focusing on different elements of the relationship between the IAS Regulation and the 4th and 7th Company Law Directives. A fourth Commission paper, discussing whether the provisions of adopted IFRS relating to separate financial statements should be applied to annual accounts, had been drafted in response to a paper from a Member State. However, during the meeting this Member State explained that the Commission's paper only addressed the issues it had raised in part. It was therefore suggested that the staff from the Member State's authorities and Commission staff discuss the issue outside of this meeting.

In presenting each of its papers, the Commission also referred to the legal disclaimer in each and made it clear that under the EC Treaty the European Court of Justice has a

sole jurisdiction to interpret acts of the institutions of the Community. Equally the Commission reserved the right to change its views as presented therein.

The first paper discussed the meaning of “annual accounts”. The Commission gave a slide presentation explaining its position and concluded that:

- Under the 4th Company Law Directive, a parent company must prepare annual accounts;
- Depending on how the Member State has exercised the options in the IAS Regulation, this company may have the choice of national GAAP or IFRS as adopted by the EU;
- The parent company has to apply the provisions in IFRS that are relevant to the preparation of annual accounts; and
- Where, under the 7th Company Law Directive, a parent company is exempted from preparing consolidated accounts, but chooses or is required to prepare its annual accounts in accordance with IFRS as adopted by the EU, those provisions in IAS 27 setting out the requirement to prepare consolidated accounts do not apply. Such annual accounts are described as having been prepared in accordance with “IFRS as adopted by the EU”.

The second paper discussed consolidation rules under the Seventh Directive and IFRS. The Commission gave a slide presentation explaining its interpretation of this issue and concluded that:

- Where a company is listed on a regulated market, it uses its national legislation, transposed from the 7th Company Law Directive, to determine whether it must prepare consolidated accounts;
- A parent entity uses Article 1, 2, 3(1), 4, 5, 6, 7, 8, 9, 11 and 12 of the 7th Company Law Directive in order to determine whether consolidated accounts are required.
- For issuers within the scope of the IAS Regulation, Article 13 is not relevant for deciding on the scope of the consolidated financial statements. Neither does it provide an exemption from the general requirement principle to prepare consolidated accounts.
- Where consolidated accounts must be prepared, then IFRS as adopted by the EU, must be applied in the preparation of these accounts.

Views from Member States

One Member State agreed that it is the national legislation, transposed from the 7th Directive, to determine whether a company must prepare consolidated accounts. This Member State did not agree that the consolidated accounts should still be required when all subsidiaries are not material. This Member State argues that the IAS Regulation was intended to apply to listed groups. The accounts of a parent company which has only

immaterial subsidiaries were still akin to the accounts of the individual entity and not those of a group.

Another Member State advised that under its law there is a provision that if a parent company has an insignificant subsidiary then consolidated accounts are not needed. Moreover the Commission had replied in 2005 that if subsidiaries are not significant under IFRS then no consolidation is needed. (This Member State also suggested that the Article 13 of 7th Directive would provide an exemption from the requirement to prepare consolidated accounts. This was rejected by the Commission.)

Another Member State did not agree with these views (i.e. views in the preceding paragraphs) as that would mean that the consolidation requirements can be different between Member States depending on the national legislation. This Member State stressed that it is the entry into force of the IAS Regulation which has made this a real issue. In the past (i.e. pre-2005 before the IAS Regulation entered into force), regardless of whether a company was listed or not, consolidated accounts were not required when all the subsidiaries were not material because the provisions of the Article 13 of 7th Directive applied to all companies. Today, listed companies have to follow the provisions of IFRS and can no longer rely on Article 13. So the question is whether, for a listed parent company, IFRS accounts still need to be prepared in cases where all of its subsidiaries are immaterial. According to this Member State this is a political decision. The Commission must be clear about this and also whether any new guidelines can be applied from now on, without need to restate earlier years. Finally this Member State also referred to the other possibilities which Article 13 gave for excluding a subsidiary (e.g. severe long term restrictions) and asked whether the advocates of using Article 13 in the IFRS context were also supporting these other reasons for exclusion.

Another Member State agreed with the view that Article 13 of the 7th Directive does not provide exemption from the general requirement to prepare consolidated accounts. However, this could be considered as a simplification measure.

CESR pointed out that the Commission should communicate its position in a clear and formal way to support the enforcement action, as it may change the current practice in some Member States. A Member State agreed that there may have been different practices and suggested that the matter should be discussed in the next meeting.

Another Member State referred to the materiality principle in IFRS (IAS 8) which would mean that immaterial subsidiaries did not need to be consolidated and, as the IAS Regulation was only mandatory for consolidated accounts, it could mean a return to national GAAP for preparing the individual accounts. CESR referred to the letter from the Commission Services dated 3 August 2005 which seemed to support this point of view and thus contradict the position that the Commission was expressing today.

Another Member State argued that once the company was in the IFRS context, even if it could exclude all subsidiaries on the grounds that they were not material under IFRS 8, it would still have to apply IFRS to its annual accounts.

The Commission concluded that: the general requirement to provide consolidated accounts and IFRS accounts is determined without regard to Article 13 of the 7th Directive. However, the specific question whether, in the case where all the subsidiaries can be omitted under IFRS, the consolidated IFRS accounts are still needed, will be further clarified in the next meeting. Member States were requested to provide their

views in writing before 15 December and a new note specifically addressing this issue will be prepared subsequently.

The third issue concerned the question whether annual accounts can be published before consolidated accounts. The Commission gave a slide presentation explaining its interpretation and concluded that:

- In the Fourth and Seventh Directive there is no requirement to publish the annual accounts and the consolidated accounts at the same time;
- Therefore, national regulations on publication should apply since under the EU regulatory framework, IFRS do not determine the deadlines for publication of annual and consolidated financial statements.
- The parent company's annual accounts should disclose that "IFRS as adopted by the EU" have been used in the preparation of these annual accounts.

Views from Member States

One Member State questioned whether in the Commission's view the disclosure requirement of paragraph IAS 27.42 related to identification of consolidated financial statements to which separate financial statements relate does not apply to the annual accounts prepared in accordance with the IFRS as adopted in the EU.

Another Member State reached another conclusion because the 4th and 7th Directives do not have provisions on the timing of publication which could be used as the authorization for annual accounts to be published before consolidated ones. So in that Member State's view, the preliminary conclusions of the Commission are not correct.

Another Member State stated that the IAS Regulation obliges all provisions of IFRS (and IFRIC) to be applied to annual accounts of companies which have chosen or are required to use IFRS for the elaboration of these accounts. Therefore the preliminary conclusions of the Commission are not correct.

Another Member State also doubted the Commission's preliminary conclusions on this matter.

The Commission responded that annual accounts should be published as being in compliance with "IFRS as adopted by the EU".

Another Member State asked the Commission that, as article 12 of the 7th Directive is one of the articles to be used in order to determine whether consolidated accounts are required, how should companies draw up consolidated accounts and consolidated annual report when there is a "management on a unified basis" group and there is no method prescribed in IAS 27.

Another Member State noted that the Transparency Directive (which will enter into force in January 2007) may resolve this matter because it will require the publication of annual financial reports within the 4 months following the company's year end.

The Commission concluded that this point will be further analysed by the Commission Services.

V. UPDATE ON DEVELOPMENTS SINCE THE LAST ARC MEETING

Equivalence between IFRS and third country GAAP, in particular US GAAP

The Commission advised that the proposals for extending the acceptability of certain third country GAAPs the period for another two years had received favourable votes in the Parliament and the ESC. The proposals would now be adopted by the Commission and (as soon as possible thereafter) published in the Official Journal. Publication is expected to be in mid to late December.

The most recent drafts published on the website are almost, but not quite, the versions that were voted and approved by the ESC. The principal modification was the addition of a new sentence which recommends that the final determination of the Commission on equivalence of third country GAAPs should put community and non-EU issuers on an equal footing.

Views from Member States

One Member State noted that no response had ever been given to its request (made at previous meetings) for a note from the Commission's legal service supporting the proposals.

IFRIC due process handbook

The Commission explained that our requests had been communicated to the IASB. One Member State insisted that the Commission needed to prepare a table comparing what the Commission had requested and what would be granted by the IASB so that Member States would be clearly appreciate the situation. This Member State believed that the Commission should place ongoing political pressure on the IASB to ensure that the EU's requests be granted.

IFRIC 10 Interim financial reporting and impairment

EFRAG advised that a clear majority of the members of its Technical Expert Group was in favour of recommending adoption of IFRIC 10. A letter to this effect should be sent to the Commission within two weeks.

IAS 39 Carve- out

The Commission reminded ARC members of the historical facts related to this issue, which results in some hedging provisions still being carved-out. It noted that the EBF will organise an educational session on its "interest margin hedge" proposal on 13 December 2006 during the IASB meeting. The Commission encouraged a continuing dialogue between the IASB and the EBF on this issue.

Views from Member States

One Member State asked the Commission if a timetable for removing the carve-out could be provided. The Commission answered that it was not possible to provide it for the time being as it would depend of the evolution of the discussions between the IASB and the EBF.

Another Member State noted that it is desirable for the Commission to support this issue moving forward. But for the time being, the Commission should let the IASB and the EBF continue their work and discussions.

Standards Advice Review Group

The Commission gave an update on developments concerning the functioning of the Standards Advice Review Group. The Commission has received 58 applications for membership in the Group coming from applicants from 10 Member States. The level of competence of applicants varies, there is however sufficient number of competent candidates.

The Commission expects to take decision on appointment in January. After publication of decision, a first meeting of newly appointed members will be scheduled. The Commission will inform ARC members on new developments in this area. One Member State asked whether possible applicants can apply even after the deadline for submission of applications of 29 September 2006. The Commission replied that these people can send applications to the Commission, which will take them into account in case of substitution or replacement of members of the Group. It cannot however take them into account in case of appointment of initial members of the Group.

IASB funding

The Commission gave an update on IASB funding. The Commission was informed by the IASCF Trustees that efforts to create a new funding system for 2008 are proceeding well. In the EU, the state of play could be described as follows:

- France has initiated a funding system, based on contributions from large companies.
- Germany, Italy, the Netherlands, Spain and the UK are making progress in establishing national funding mechanisms.
- Other Member States, for example Sweden, are holding discussions with the IASB for including it in their existing funding arrangements for their national accounting standard-setters.

The accounting profession has declared their continuing support for the IASB. Discussions between the IASCF and business organisations at EU level have progressed a bit slower than expected. Organisations from several countries have expressed concerns about IASB/IASCF governance and due process. The Commission Services will prepare reports on developments linked to IASB governance twice a year.

VI. MISCELLANEOUS

Next meeting

The next ARC meeting was planned for 9 February.

Meeting of 24 November 2006

PARTICIPANTS' LIST

Austria

Austrian Financial Markets Authority

Belgium

Commission Normes Comptables

FOD Economie

Cyprus

Czech Republic

Denmark

Danish FSA

Commerce and Companies Agency

Estonia

Estonian Accounting Standards Board

France

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

Conseil Nationale de Comptabilité

Finland

Ministry of Social Affairs and Health

Germany

Bundesministerium des Justiz

Greece

Ministry of Economy and Finance

Greek Accounting and Auditing Oversight Board

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

Malta

The Netherlands

Ministry of Justice

Ministry of Finance

Poland

Ministry of Finance

Portugal

CMVM

Slovakia

Slovenia

Spain

Banco de España

ICAC

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

Bulgaria

Ministry of Finance

European Institutions/Committees

European Central Bank

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

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

Ulf Linder, Deputy Head of Unit F3 "Accounting"

Remo Croci, Secretary to the ARC/F3

Philippe Bui/F3

Annette Davis/F3

Jitka Hurodova/F3

Arto Leppilahti/F3

Martin Maxa/F3

Knut Tonne/F3