

SUMMARY RECORD

<p>MEETING OF THE ACCOUNTING REGULATORY COMMITTEE AND CONTACT COMMITTEE OF 16 MARCH 2007</p>
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Mr Delsaux, Director for the Free Movement of Capital, Company Law and Corporate Governance Directorate, DG Internal Market and Services chaired the twenty-fifth meeting of the Accounting Regulatory Committee and the second meeting of the Contact Committee in 2007.

DISCUSSION AT THE MEETING

I. APPROVAL OF MINUTES OF THE MEETING OF 2 FEBRUARY 2007

The Minutes were approved.

II. IFRIC 12 SERVICE CONCESSION ARRANGEMENTS

The Chair introduced the subject of IFRIC 12 Service Concession Arrangements and recognised that this was a sensitive issue. Member States were not expected to vote during this meeting, but the Commission invited views, in particular whether IFRIC 12 was flawed or whether the problems lay mainly with existing standards behind IFRIC 12 rather than the IFRIC itself.

EFRAG explained the final position it had reached in a special meeting after the end of the consultation period and explained that the formal letter will be provided to the Commission as soon as possible. EFRAG voted in favour of endorsement (9:3) and explained that abstentions were counted as votes in favour (EFRAG did not clarify a question from one Member State as to how many of the 9 votes in favour were abstentions). A big number of commentators had argued against endorsement. Those opposing wanted a completely different accounting treatment because IFRIC 12 would not, in their opinion, result in true and fair presentation of the economic reality.

EFRAG considered several alternatives, e.g. use of the percentage-of-completion method in the operating phase, the question of guarantees for rate of return and "law guarantees" but concluded that those were not acceptable from a technical point of view.

Although recommending endorsement EFRAG explained its intention to provide the IASB with proposals for amending the drafting of IFRIC 12 in the short-term.

Views from Member States

One Member State argued (as during the last meeting) clearly against endorsement of IFRIC 12. The main reasons for this are that IFRIC 12 did not reflect a true and fair

view and therefore did not reflect the economic activities. A specific standard, which could address the specific characteristics of the industry, would be much more preferable. The IASB should be working towards such a standard. In the meantime this Member State proposed, as a "transitional solution", amending IFRIC 12 to allow, under the intangible asset model, the use of the percentage of completion method as established in IAS 18.

The Chair asked other Member States for their views but indicated that there were strict limitations on the type of amendments which could be done under the IAS Regulation.

One Member State commented that in general companies in its jurisdiction find IFRIC 12 unclear. A full impact assessment has not yet been made and therefore there cannot be a final position. Regarding the proposed "transitional solution" the Member State was not sure whether it could be seen as improving matters. Since the issue was very complex the IASB should be requested to address it via a standard and not an interpretation. The Member State warned that accepting IFRIC 12 would mean overriding present concerns. A rejection decision must be linked with a clear expectation to develop something that was better in the short-term. IFRIC 3 Emission Rights, which was withdrawn by IASB, was mentioned as an example. Another Member State agreed with that view.

One Member State expressed concerns with the idea of changing official IASB/IFRIC texts as was being suggested. The arguments mentioned have been debated and already been rejected by IFRIC on technical grounds. The question was rather why those Member States that have problems could not adapt the terms of their contracts in order to get the desired accounting under the financial asset model as offered by IFRIC 12.

The reaction from another Member State was that accounting should reflect business reality rather than influence the way of making business. Therefore changing contract terms cannot be an option.

One Member State commented that it was unsure whether IFRIC 12 was really unsuitable. There are several standards in practice which are not perfect from the view of certain Member States or industries. However, one has to be prudent regarding the issue of non-endorsement, in particular in view of the issue of IFRS branding and the debate regarding equivalence and convergence. Regarding the proposal to amend IFRIC 12 the question was whether this would help to solve the problem, since it was unclear whether the problem was to capitalise costs or to anticipate future revenues. Another possible solution could be to approach the measurement of the intangible asset in a more optimistic way. In any case a decision regarding endorsement has to be taken soon. A long deferral is not acceptable.

The response from the Member State which was proposing the transitional solution was that the issue was simply about matching costs and revenues over the contract term in order to reflect economic reality (no losses in the period overall). This Member State explained that under the financial asset model it was possible to anticipate revenues and, in this Member State's view, anticipating revenues should also be made possible under the intangible asset model (which was not the case at the moment).

EFRAG's view was that any proposal to amend an official IFRS text carried the risk of knock-on effects in accounting for transactions in other complex areas. This was even more so should we try to find 'innovative solutions'.

Another Member State agreed with the concerns regarding IFRIC 12 but hoped that a discussion on Regulatory Assets – as initiated by the Roundtable – could provide a quick solution.

One Member State confirmed its view (as indicated in the last meeting) that it was in favour of IFRIC 12 because, although it was an unusual interpretation, it did indeed fill a gap in the IFRS literature. Although there were views that IFRIC 12 would not give a true and fair view, there were clearly many stakeholders who believed the opposite.

One Member State indicated that it would be in favour of IFRIC 12 and in view of the bigger picture any consideration regarding non-endorsement should be combined with an impact assessment. This Member State was against any widening of the gap between IFRS as adopted by the EU and full IFRS.

The possibility of non adoption of IFRIC 12 but leaving it simply as 'guidance' was also raised by a Member State. However CESR cautioned against such a practice because in such circumstances it would not be possible for companies to make use of the transitional provisions of IFRIC 12.

The Chair concluded by inviting Member States to write to the Commission Services with their views on the adoption of IFRIC 12 by the end of April. Subsequently the Commission will consider next steps to be taken with regard to this issue for consideration at the next ARC meeting in June.

III. TEXT OF DRAFT REGULATIONS – POSSIBLE ALTERNATIVE WORDINGS IN RESPECT OF COMMENCEMENT DATES AND EARLY APPLICATION

The Commission Services presented the issue of suitable wording for the date of application of IFRSs and IFRICs adopted in Commission Regulations This was set out in the document sent to ARC members (Document ARC/10/2007).

The Regulation 1606/2002 (the "IAS Regulation") serves as a basis for the Commission to endorse upcoming IFRS/IFRICs. One important matter was to establish a suitable unambiguous wording for the date of applicability of the given standard or interpretation which is being endorsed i.e. commencement of its obligatory character for the purposes of Community law. Standards and interpretations existing at the time of publication of the IAS Regulation were then endorsed with applicability as from 1 January 2005. As regards endorsing IFRSs and IFRICs issued after 1 January 2005, the formulation has tended to vary; particularly as regards the requirement to apply the provisions as from some future date whilst at the same time permitting voluntary early application (i.e. requirement to apply the IFRS/IFRIC as from (e.g.) 2009 financial year at the latest). Some Member States consider the current wording to be ambiguous.

The Commission having examined the matter now came forward with two options for a new clearer formulation for use in the future.

The Commission pointed out that in its view:

- it is not possible to use the wording "on or after", because it does not provide sufficient legal certainty;

- it is not possible to use for the endorsing Commission Regulation the date used in the standard/interpretation itself, because the endorsement process may be concluded after that date and because the actual standards/interpretations use the unsuitable wording "on or after";
- the formulation "at the latest" allows earlier applicability of the given standard/interpretation, under certain conditions;
- the formulation "first financial year..." provides for legal certainty, as the applicability cannot be allowed to start at whatever future date. Instead it will apply from the first financial year after a given date.

Views from Member States

Many Member States supported the proposal in Option 2 i.e. the beginning of the applicability of the standard/interpretation on the company's first financial year beginning after a specific exact date.

With no Member State having signalled opposition during the meeting, the Commission concluded that there seemed to be broad support for this proposal. Therefore the Commission envisaged using this formulation in future endorsement Commission Regulations, provided no Member State expresses its opposition (or proposes an alternative wording) in writing by the end of March.

One Member State thought it would be appropriate to publicly explain the change to the new wording for use in future. The Commission agreed to put an explanation in the news-section of its website.

The Chair summarised the results of the discussion:

- Member States appeared to unanimously support the wording in Option 2 for the "date of applicability" clause in the endorsing Commission Regulations, i.e. the beginning of the applicability of the IFRS/IFRIC for the company's first financial year beginning after a specific date.
- If no Member State expresses a different position in writing by the end of March the Commission will use this wording for future endorsement Regulations and place a short explanation of this on its website.

IV. CONSISTENT APPLICATION – ROUNDTABLE

The Commission Services presented an update of the issues discussed at the three Roundtable meetings which have taken place to date (May and September 2006, January 2007). Twenty-six issues have been discussed and five of them have been concluded as being of *common concern* regarding consistent application of IFRS in Europe.

Views from Member States

One Member State asked about CESR's enforcement activities and practical experience in the context of consistent application to date. CESR replied that a report giving a general overview of issues will be published in the early summer. Another report with information on about twenty enforcement decisions taken by EU Regulators is

expected to be published by the end of March 2007. Some CESR members had also issued reports on application at a national level.

Another Member State asked about the effectiveness of the Roundtable regarding getting IFRIC to take up its issues. The Commission Services explained that the aim is not only to get IFRIC to address issues that have been referred to them by the Roundtable, but also (i) to get clarification by IFRIC via rejection wordings, (ii) to bring EU stakeholders together to discuss issues of relevance in the EU and (iii) to monitor on a European level developments regarding consistent application in practice.

One Member State referred to IFRIC's transparency, which has been improved by the recent amendments to the IFRIC due process handbook. Nevertheless it is important to continue monitoring IFRIC's processes and keep track of the proposals made by the EU. Further discussions regarding IFRIC should be scheduled.

V. IFRS BRANDING

The Commission presented the discussion paper (ARC/12/2007) on the IFRS "branding" issue. The issue has gained relevance both due to developments of the US Securities and Exchange Commission's (SEC) reporting requirements and due to the discussion at the IASB about modifying IAS 1 to require any deviation from the full IFRS to be explained in the accounts. The IASB proposal is addressing the concerns that - in situations where entities prepare financial statements in accordance with frameworks based on, but not fully compliant with, (full) IFRSs - users may be misled into thinking that the statements comply, in all material respects, with IFRSs and make decisions based on that assumption. The IASB has made it clear that this proposal was not directed towards the EU.

In particular, the Commission asked Member States for their views on:

- The IASB proposal to amend IAS 1 to disclose information about the differences between the framework used and (full) IFRSs.
- Whether the differences between IFRS as adopted by the EU and full IFRS are likely to be so material that they merit a disclosure in the accounts.
- The SEC requirement for reference to full IFRS. Whether this requirement is in accordance with the principle of the mutual recognition of EU-US accounting standards.
- Would there be a need for a standard formulation for those companies using the carve out? A type of short standard description of the differences.

Views from Member States

Two Member States expressed concern that, although it is not in the current proposal, the IASB may later on require quantitative reconciliation to full IFRS. Some Member States were also of the opinion that the explanation of the differences is already sufficiently clearly given by the reference to the *IFRS as adopted in the EU* (as opposed to full IFRS). Moreover, if an issuer is using the carve out, it has to disclose its accounting policies. One Member State emphasised that the starting point was IFRS as adopted by the EU. Such adopted IFRS were clear, known and publicly available.

Some Member States were of the opinion that such a reconciliation requirement would be the end of the meaningful endorsement process. Although they had understanding of the IASB's problem, an amendment of IAS 1 is not the right solution. Neither did they support the idea that compliance with full IFRS could be precondition to benefit from the lifting of the SEC reconciliation requirement. Instead the EU should work on to get a solution based on mutual recognition between the EU and US. It needs to be recognised that the endorsement process is a part of the EU accounting system. Furthermore one Member State pointed out that the EU endorsement system (and existence of a carve out) was already known by the SEC when the roadmap was initiated.

CESR explained that the IASB Board Members have different views on the amendment and it is not sure whether it will go any further. The IASB would not be able to make that provision mandatory in the jurisdictions and after all it could be counterproductive by giving recognition to deviations from full IFRS. Nevertheless, the current IAS 1 already requires compliance with all IFRS standards. CESR agreed with Member States that virtually all EU companies are currently complying with both IFRS as endorsed in the EU and full IFRS.

The Commission concluded that Member States did not support the proposed amendment to IAS 1. Moreover, acceptance of the EU-US accounting policies should be based on mutual recognition and reciprocity.

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

The Commission services described the key elements which are expected to feature in its first report to the European Securities Committee and European Parliament under the two legislative measures adopted towards the end of last year. It will describe the work timetables towards convergence to IFRS of each of the authorities of Canada, Japan and the US. The report will also discuss the definition of equivalence (based on advice from CESR) and list those third country GAAPs which third country issuers listed in the EU are using for the preparation of their accounts.

US GAAP convergence

The Commission explained that according to the preliminary information, the convergence projects between IASB and FASB are progressing in line with the timetable set out in the joint Memorandum of Understanding between the two Boards. The Commission will draft its report to the EP and ESC on the basis of the advice submitted by CESR in the beginning of March.

Japanese GAAP convergence

The convergence work in Japan is based on the project plan which covers 26 issues identified by CESR in 2005. The program is ambitious and there are regular meetings between the Japanese FSA and the Commission to monitor the progress.

Canadian GAAP convergence

In January 2006, the Accounting Standard Board of Canada issued a timetable to make Canadian publicly accountable enterprises apply IFRS as from 2011. It also published,

on 30 June 2006, an Implementation Plan for incorporating IFRS into Canadian GAAP by the same date. Up to now, both processes are proceeding well.

Views from Member States

Two Member States very much regretted not having received a copy of the report. In the absence of such, one of these Member States considered that it had not been informed. The Commission explained that this was a report which was being *addressed to Member States* but through the European Securities Committee rather than the Accounting Regulatory Committee.

One Member State asked for the Commission's view regarding the recent press news that the Japanese are disappointed by addition requirements imposed by "Brussels". The Commission explained that it did not yet react officially to this, but can clarify that there are no additional requirements. Any further developments will be discussed in the second monitoring session on accounting on 26 March 2007 in Tokyo.

VII. SIMPLIFICATION OF ACCOUNTING RULES FOR SMALL AND MEDIUM-SIZED ENTERPRISES - POSSIBLE REVISION OF THE 4TH AND 7TH DIRECTIVES

The Chair described the overall purpose of the project and indicated the next steps towards presenting a Commission Consultative Communication mid-2007. The purpose of the discussion at the ARC was to present initial ideas for ways forward. He particularly emphasised that the project is in an early stage and there will still be several opportunities to discuss simplification issues with Member States.

Brief summary of comments from Member States on the Commission questionnaire

A Commission representative thanked Member States for their comments and gave a brief update of the major direction of comments on key issues. (A more detailed summary of comments will be sent to Member States.)

Are the requirements in the Directives considered burdensome?

Most, but not all Member States, considered certain requirements in the Directives burdensome. Publication and disclosure requirements were often mentioned in this context.

How best to define SMEs? Through quantitative criteria?

Yes, most replies indicated that using size criteria might be the best way to distinguish/define small and medium-sized entities (because of their apparent objectivity and measurability). Alternatively it had been argued that a distinction could be made according to the diversity of shareholders. For example, single shareholder or family shareholder companies could be considered as categories for reduced or removed requirement.

Should the thresholds defining small and medium-sized entities be increased?

Some Member States were in favour of raising the thresholds (including the number of employees) further, whereas others were much more reluctant.

Are Member States using the current SME exemptions in the Directives?

The answers indicate varying use. Some countries by principle always use the full possibilities, whereas others have used some possibilities only.

Are there specific requirements or options in the Accounting Directives that should be simplified, amended and/or removed for SMEs?

In general, Member States commented on the need for simplifying disclosure and publication requirements for small and medium-sized entities. Certain Member States even advocated a full exemption for small companies from the current publication requirements.

Member States referred to the ARC discussion on whether parent companies with only non-material subsidiaries should have to provide consolidated accounts (article 13 of the 7th directive). It would be seen as a clear simplification to eliminate such a requirement.

Amending the requirements for the layouts of balance sheet and income statement was overall not regarded as a decrease of the administrative burden.

Are there further exemptions from disclosure that could be considered for small and medium-sized companies?

The majority of respondents advocated further reductions regarding the number of disclosure requirements, but not many concrete suggestions were given.

Should simplification measures also be applicable for non-SMEs in the scope of the Directives?

According to most Member States, the project on simplification of accounting requirements should generally be limited to SMEs. In a later phase, however, it might be worth discussing reduction of administrative burden also for non-listed large companies.

Will the IASB exposure draft of an accounting standard for SMEs be appropriate for small and medium-sized companies within the scope of the Accounting Directives?

The majority of Member States confirmed that the exposure draft of the IFRS SME standard would not be suitable for most SMEs in Europe, as it does not contain enough simplifications. Member States also explicitly expressed their opposition to making a future SME standard binding for non-listed companies in the EU.

Commission introduction to the initial simplification ideas

A Commission representative gave a brief introduction to the initial simplification proposals outlined in the Commission staff document. In the document, the Services have identified the following **major measures** that could lead to simplification for SMEs:

- **Introduction** of a category of "**micro enterprises**" in order to facilitate substantial simplification for the smallest entities
- Making the practical application of the **SME thresholds more advantageous** for these companies

- **Relieve** small entities from the requirement to **publish their accounts**
- Making it possible for **medium-sized entities to use exemptions currently available only for small entities.**

Following the comments received from Member States, the Commission Services also propose to do amendments to the Directives in the areas of:

- Consolidation rules
- Accounting for deferred taxes
- Removal of certain disclosure requirements

Views from Member States

One Member State regretted that it got the Commission document so late. This Member State found the document very interesting, but would like to see more precision in the proposals from the Commission Services. A pro-contra analysis could be useful. The creation of a category of micro enterprise was very interesting and helpful, but the actual thresholds would need to be elaborated more in detail.

The same Member State commented that it removed the audit requirement for very small entities in 2006. It also had a clarifying question regarding the connection between Article 57 and the possible relief from the audit requirement for medium-sized entities (Art 2.5 in the Commission staff note).

Another Member State had hesitations about the working method used by the Commission. The Commission document was late, and furthermore a summary of Member States' comments had not been circulated. A more thorough method should be used as the current project could lead to the largest changes to the Directives for a long time.

One Member State appreciated the clear and constructive proposals in the Commission staff note. It generally agreed with the proposals, and particularly mentioned that the inclusion of a discussion of deferred taxes was positive. It is important to go ahead quickly with the project.

One Member State stated its general support for simplification efforts. It had however not had the time to study the proposals in detail, but will come back with written comments. This Member State stated that it did not have a category of micro enterprises and would be interested to know more about the situation in other Member States. This Member State found it a bit curious that the Commission advocated total exclusion of these companies from the Directives ("negative harmonisation"). This seems to be contrary to classical Commission harmonisation policy. This issue should be looked into more thoroughly. Particularly the prohibition to require audit of micro-entities should be analysed. Finally, this Member State expressed reservation about the proposal to relieve small enterprises from the publication requirement.

Another Member State regretted the late delivery of the document and stated that such an important process must allow the time for proper preparation and consultation in Member States. This Member State had three initial comments on proposals in the document:

- The document did not contain enough reasoning for the proposed five years transitory threshold period for a company to go from a "small" to a "medium-sized" entity. This Member State however agreed with the proposed one year period to drop out from the requirements for medium-sized companies.
- Concerning the consolidation requirements and the relief from the requirement for preparing subsidiary accounts: sufficient safeguards for minority shareholders must be in place.
- Any change to thresholds is very political and must be analysed more in detail.

Finally the same Member State found it illogical that the Commission paper prohibited Member States from requiring an audit for micro-enterprises.

One Member State expressed its support for the main parts of the Commission paper, but stated that some of the presented ideas needed more discussion. Before relieving limited companies from the requirement to present accounts, a thorough analysis must be made in order to ascertain that there is still acceptable protection for creditors. Otherwise there could be a backlash and actually cause SMEs problems, if they would be considered less reliable business partners. The notion of micro-entities needs some further clarification. On two issues this Member State judged the Commission paper too optimistic:

- The problems with deferred taxes should not be underestimated. The fact that it is removed from the Directive requirements does not really solve the issue.
- On consolidation requirements: how can a group auditor really pronounce on the group accounts if no thorough audit has been done on subsidiaries?

Another Member State congratulated the Commission for the document, but regretted that it did not yet have time to consider it in detail. This Member State raised the issue of when a full Impact Assessment will be conducted. This is particularly important for the determination of the thresholds for micro-enterprises.

This Member State had a specific remark on paragraph 2.4 in the Commission document concerning cases where third parties could request accounts from a medium-sized entity that had been relieved from the requirement to prepare accounts. This Member State argued that only a contractual party should have this right.

One Member State had serious comments as related both to the form and the contents of the project. It is of crucial importance that Member States' comments are summarised and circulated to other Member States. Furthermore, Member States should be informed the Commission's early soundings with stakeholders, in particular the discussions that took place with the accounting profession.

It is crucial that important projects such as this one is initiated together with Member States. There should be agreement between Member States and the Commission on the common direction, and only then there should be broader consultations with other parties

The same Member State also commented on the general contents of the project and concluded that the actual need for the project had not been demonstrated. More strategic thinking would be needed to explain the very radical changes that are currently on the table. The proposed measures must be placed in a context in order to see if they work in the existing reporting framework.

The Member State continued with a number of specific points on certain issues:

- The creation of a category of micro-enterprises – excluded from the Directives – could lead to an important deconstruction of achieved harmonisation. This could have very dangerous effects.
- The removal of the audit requirement needs more reflection, as we could change the current equilibrium in the reporting and auditing frameworks.
- Publication and disclosure requirements are important. The current proposals going in the opposite direction to other very recent changes to the Directives introducing further disclosure requirements. Such a quick change in policy could cause problems.

The same Member State also wanted it to be clearly stated in the current project that a future IFRS for SMEs (based on the current exposure draft) has no place in the existing EU financial reporting framework.

The Member State concluded that the final outcome of all these proposals could be that the Accounting Directives in fact apply only to very few companies. Is this what we want? The Commission still has to provide some major explanations to the context and details of the current proposals.

Chair's concluding remarks

The Chair asked Member States to provide comments in writing before the end of March. He reiterated that one of the major purposes of the forthcoming Commission Communication is to be the basis for an in-depth discussion with Member States. Member States are the privileged partners in this process.

The Commission Services will collect and circulate a listing of micro enterprise definition used in Member States and what accounting requirements these companies are subject to.

An Impact Assessment will be made and the timing will follow the general legislative process: proposal end of 2007/beginning 2008. The preparation of the Impact Assessment will be discussed with Member States.

VIII. MISCELLANEOUS

There were mixed views on the ease and usefulness of the CIRCA library system for accessing and downloading ARC documents. Two Member States did not find it a convenient way for transmitting documents and requested that the manner of transmitting ARC documents by email be retained. By contrast another Member State had found the facility very useful and easy to use.

The Commission explained that it would continue sending documents by email for as long as Member States so wished. Another Member State requested that documents continue to be sent by email.

It became clear that several other Member States had not yet tried using the system for accessing documents. The Commission encouraged other Member States to try using the system. It was therefore agreed that both methods (email and CIRCA) would continue to run in parallel and the situation would be reviewed again at the next meeting.

Next meeting

The next ARC meeting was planned for 6 June.

Meeting of 16 March 2007

PARTICIPANTS LIST

Austria

Ministry of Justice

Belgium

Commission Normes Comptables

Fod Economie

Bulgaria

Ministry of Finance

Cyprus

Ministry of Finance

Czech Republic

Ministry of Finance

Denmark

Danish FSA

Danish Commerce and Companies Agency

Estonia

Estonian Accounting Standards Board

France

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

Finland

Germany

Bundesministerium des Justiz

Greece

Greek Accounting and Auditing Oversight Board

Hungary

Permanent Representation to the EU

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Department of Enterprise, Trade and Employment

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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)

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