

**SUMMARY RECORD OF THE 76<sup>TH</sup> MEETING OF THE EUROPEAN SECURITIES COMMITTEE  
(ALTERNATES)  
15 NOVEMBER 2011**

**Working Document ESC-7-2011**

The meeting was chaired by Mr Emil Paulis, Director of the Financial Markets, DG Internal Market and Services. The Chairperson welcomed the members and expressed his wish to have a good meeting and take full advantage of this cooperation opportunity. The Chairperson then briefly recalled the framework for the exercise by the European Commission of its powers to adopt implementing and delegated acts.

**1. ADOPTION OF THE DRAFT AGENDA**

The agenda was adopted.

**2. DRAFT COMMISSION IMPLEMENTING DECISION AMENDING COMMISSION DECISION 2008/961/EC ON THE USE BY THIRD COUNTRIES' ISSUERS OF SECURITIES OF CERTAIN THIRD COUNTRY'S NATIONAL ACCOUNTING STANDARDS AND INTERNATIONAL FINANCIAL REPORTING STANDARDS TO PREPARE THEIR CONSOLIDATED FINANCIAL STATEMENTS**

The Commission services updated the ESC Members on the state of play regarding the determination of equivalence of third country accounting standards to IFRS (International Financial Reporting Standards). The content of the draft Commission implementing Decision amending Decision 2008/961 on the use of third countries' issuers of securities of certain third country's national accounting standards and IFRS to prepare their consolidated financial statements was presented. The members were informed that ESC is expected to cast a vote, in its capacity of a comitology committee, on the draft implementing Decision which will be shortly sent to the members via written procedure.

The Commission services then shortly presented the status quo in the countries currently participating in the equivalence mechanism. If Canada, South Korea and China implemented IFRS, the situation is more complex in relation to India, for which the Commission decided to closely monitor the process and prolong the transitional period for three more years.

ESMA intervened in order to explain its role in the process of establishing the findings which informed the proposed draft legislative package and to confirm that the Commission's assessment of the situation in the various countries was correct.

Two members questioned the timing of the procedures and why different acts on the same object were not treated perfectly in parallel. It was explained that as other texts are delegated acts, namely two delegated regulations, they were submitted to the Expert Group of the ESC. Another representative wondered why US and Japan, which were present in the original Decision, are left out of the scope of the amending one. The Commission services explained that these countries have already been declared equivalent in 2008 and their status has not changed. One Member State expressed that a need was felt to consult the national accounting experts and allow some time for political discussions. The Commission explained that the national representatives in the Accounting Regulatory Committee (ARC) have been fully informed throughout the process, the Commission equivalence report has been sent to them and a presentation and discussion took place at the last meeting of the ARC. Nevertheless, ESC is the competent committee to vote on the text. Moreover, the Commission stressed that

this is a very technical field and caution is necessary in order not to make the process overly politicised because accounting rules are very complex and have to be neutral to allow companies to properly portray their accounts.

The Commission services committed to re-circulate the Report which was drafted with the input of ESMA and a variety of other sources and which was the basis of the Decision under discussion, together with the Decision itself.

### **3. AIFM LEVEL 2 – IMPLEMENTING ACTS**

The European Commission informed ESC members on the state of play regarding the level 2 implementing measures of the Directive on Alternative Investment Fund Managers (AIFM). ESMA had finalised its technical advice to the Commission and transmitted it that same day. The Commission informed that it will now, on the basis of the advice, draft the measures implementing the AIFMD. ESMA's representatives explained the main parts of the advice and offered further support to the Commission where and when needed.

Some delegations enquired about how Member States would get involved in the process and whether, and if so, where the Commission intended to deviate from the technical advice. They also enquired as to the legal form the Commission intended to use when drafting the implementing measures. The Commission responded that, in view of the high quality of the advice, it would most likely stick very close to it. It intended to present draft implementing measures to the ESC in February 2012 and invited ESC members to contact the Commission and signal possible concerns on the level 2 measures at an early stage. Regarding possible deviations from the advice and the legal form of the implementing measures no final decision has been taken.

Several delegations pointed out that Member States needed sufficient time for transposition not only for Directives but also for Regulations which entailed passages that required transposition into national law. They therefore requested a detailed time table for the further work to which the Commission agreed.