

The Committee of European Securities Regulators
11-13 Avenue de Friedland
75008 Paris
France

14 May 2007

Dear Sirs

CESR Consultation Paper 07-212: *CESR's technical advice on a mechanism for determining the equivalence of the generally accepted accounting principles of third countries*

We are responding to the invitation to comment on the above referenced consultation paper on behalf of PricewaterhouseCoopers. 'PricewaterhouseCoopers' refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

We have addressed the specific questions raised in the consultation paper in the attached annex. In this covering letter we address some of the more significant issues raised by this consultation.

Comment period

Given the importance of the subject matter of this consultation to third country issuers, we consider a three week comment period to be wholly inadequate to allow respondents to give proper consideration to CESR's proposals. Therefore there may be further areas of significant concern that we would wish to draw to your attention which we have not been able to identify at this stage due to the time constraint imposed on the comment period.

Timing of this consultation

We note that, in the period since this consultation was launched, the US SEC has issued its announcement that it will issue a Proposing Release in mid-2007 regarding the removal of the US GAAP reconciliation for foreign private issuers that file IFRS financial statements. For companies that prepare financial statements using IFRS as issued by the IASB, this would potentially allow their accounts to be filed without any additional disclosures or reconciliations.

We further note the bilateral agreement, signed on 30 April by the political leaders of the European Union and the United States, the 'Framework for Advancing Transatlantic Economic Integration between the EU and the USA'. Among the Framework's priority projects is to 'promote and seek to ensure conditions for the US Generally Accepted Accounting Principles and International Financial Reporting Standards to be recognized in both jurisdictions without the need for reconciliation by 2009 or possibly sooner.'

Areas of significant concern

Based on CESR's consultation document, and in view of the recent developments noted above, we have some significant questions and concerns on the proposals. These are:

- The overall strategy and objective in relation to Equivalence
- The impact of the US-related developments
- The burden on third country standard setters
- The timetable for assessments to be made
- The meaning of non-complex disclosures
- Whether equivalence is to IFRS or EU adopted IFRS
- Filters at country level
- Auditor assurance regarding the remedies.

We discuss each of these in turn below.

Overall strategy and objective in relation to Equivalence

We are not clear as to the overall objective that CESR and the European Commission wish to pursue. Is the objective to provide investors with equivalent information (no material differences) on which they can take similar economic decisions (ie a focus on 'outputs')? If so, we do not believe that unquantified disclosures will be sufficient for investors to be able to make similar decisions.

Or is the objective to look to the existence of stable, well established third country GAAPs that are understood by the markets, which, together with the existence of a convergence programme, might provide a basis for equivalence (ie a focus on 'the environment')?

As noted in our letter to CESR on the previous consultation on Equivalence 05-230, we are not aware of any empirical evidence that the market currently mis-prices securities where the GAAPs are not equivalent.

Rather than the detailed assessment of differences that would be the natural consequence of the former option, we recommend that the approach should be founded on whether another GAAP provides 'sufficient transparent data for investors to make informed decisions'.

Impact of the US-related developments

Our reading of the recent bilateral deal between the EU and the United States, referred to above, leads us to conclude that it has been agreed at a political level that there will be mutual recognition of IFRS and US GAAP in the respective markets. The inference is that US GAAP will be considered equivalent to IFRS, regardless of any mechanisms or advice suggested by CESR. We are not sure of the impact of this for the wider consideration of equivalence in relation to other third countries.

Burden on third country national standard setters

The paper proposes that the initial assessment of differences should be prepared by the third country national standard setter. We question whether those standard setters will be well placed to meet all the requirements. In addition to the initial assessment of differences proposed in paragraph 12, which could be quite extensive, paragraph 32 suggests that the third country standard setter should submit an impact assessment each time the national standard setter or the IASB issues a new standard. Depending on the degree of activity, this could result in many such assessments having to be made in a single year.

Those larger third country standard setters with more resources at their disposal may be able to fulfil the requirements. Those from smaller capital markets, that perhaps have fewer or even only a single company listed on EU markets, may find it difficult to do so. In those circumstances it is possible that a company may not be able to continue its EU listing, because the standard setting infrastructure in its home country is unable to provide the necessary analysis.

Timetable for assessments

CESR is proposing in paragraph 19 that each third country assessment should be subject to public consultation prior to CESR rendering advice to the Commission. While such consultations will clearly be of greatest relevance to those with a direct interest in the country concerned, the issuance of multiple consultations on different GAAPs is likely to place a strain on those organisations that may wish to comment on each consultation.

If these proposals are taken forward, CESR and the Commission should issue a detailed timetable, working back from the Commission's need to determine equivalence in each case at least six months prior to 1 January 2009 (ie by 1 July 2008). The need to accommodate a public consultation by CESR, and for CESR to have sufficient time to review the results of such consultations, means that third country national standard setters may now have little time in which to plan and prepare their initial assessments.

For the purposes of the Commission's assessment prior to January 2009, it will also be important that clear instructions are given as to the date at which the third country assessment should take place (for example, at 31 December 2007).

Benchmark for non-complex disclosures

Paragraph 16 suggests that, even if significant differences between measurement and recognition principles and disclosure requirements exist, these could be rectified at company level by the use of non-complex disclosures that would be proposed by the local standard setter.

We believe that it would be helpful for CESR to explain further what it means by 'non-complex disclosures' and perhaps provide the underlying thinking so that third country standard setters understand the intent of CESR. Without a suitable framework or benchmark, it will be difficult for third country standard setters to develop such disclosures using a consistent approach.

Equivalence to IFRS or EU adopted IFRS?

It is not clear from the references in the consultation paper whether third countries are required to assess equivalence to IFRS as issued by the IASB, or to IFRS as adopted by the European Union. Paragraphs 2 and 3 of the paper suggest it is endorsed IFRS, while paragraphs 12 and 32 imply IFRS as issued by the IASB.

We do not consider it would be reasonable to expect third country standard setters and issuers to keep track of the complexities of the adoption mechanism for IFRS in the EU. The legal process for adoption of IFRS in the EU involves multiple institutions and is very difficult for the expert, let alone a third country observer, to follow and understand. We believe this should be made clear that third countries are required to assess equivalence to IFRS as issued by the IASB.

'Filters' at country level

We note that in paragraph 28 the audit is viewed as *'a reasonably objective proxy for any other specific assessment of the filters'*, and that the key to the reliability of the financial statements *'is the robustness of the audit conducted on them'*.

As one of the major international network firms of auditors, we are committed to conducting high-quality audits. However we do not agree that the audit can or should be viewed as a substitute for adequate standards of corporate governance, business ethics and behaviour, and corporate reporting enforcement processes in each country. Further, auditors should not be expected to produce company specific data: that is the role of company management. We believe that the primary point at which these filters should be considered is when the securities are accepted for listing on an EU regulated market and through continuing obligations for companies listed on those markets. We do not see why they should be tied specifically to the assessment of equivalence of accounting standards.

Further, the audit is itself a product of multiple factors, including: professional audit standards, the quality and training of professionals in audit firms, audit methodologies, quality control procedures, independent quality inspection, and, not least, the overall environment (of law, regulation, governance and business conduct) in which the audit is performed.

Auditor assurance regarding the remedies

Paragraph 31 of the paper states that *'any rectification procedures suggested in Steps 1 or 2 of the mechanism should be included within the scope of the audit of any set of accounts actually produced by a third country issuer using a third country GAAP that has been deemed equivalent.'*

Our view is that - particularly in the absence of any suitable framework or benchmark for such remedies than can be applied consistently on an international basis - such rectification procedures should not be subject to separate assurance. Any such supplementary 'equivalence' disclosures should be covered by (but not specifically referred to in) the audit report on the national GAAP financial statements.



We would be happy to discuss these issues further with you. If you have any questions regarding this letter, please contact Ian Wright (+44 207 804 3300) or Jens Roder (+45 3945 3238).

Yours faithfully

PricewaterhouseCoopers LLP

**CESR 07-212: Technical advice on a mechanism for determining equivalence.
Comments on detailed questions in the Consultation Paper**

Question 1: Do you agree that CESR's suggested method for handling applications for equivalence is the best way? In cases where the standard setter is not in a position to initiate and/or substantiate an application, do you have any concrete suggestions as regards the solution of such a situation and in particular, who could undertake the abovementioned assessments?

If it is decided that a detailed analysis is needed (a question on which we have some doubts as discussed in our covering letter), then requesting the national standard setter to perform the initial assessment may be the most realistic and efficient way of handing the process, particularly as deep knowledge of the third country GAAP may not reside outside the country concerned.

However, we are concerned about the overall objective of the exercise and, that the assessment process (which potentially may have to be repeated at frequent intervals as new national or IFRS standards are issued) may have significant resource implications for some third country standard setters.

Question 2: Do you think that CESR should publish guidance on the information that it would consider satisfactory to ensure an informed decision?

Yes, as discussed in our overall comments in our covering letter regarding the objective of the exercise. Unless CESR publishes guidance to assist the third country standard setters, the analysis prepared by those standard setters may be different in approach and rigour. Inconsistency in the approaches taken by each third country will also, in turn, make it more difficult for other commentators to review the material as part of the public consultation process envisaged by CESR.

Question 3: Which of the two approaches indicated above (and in the Appendices) do you think is most appropriate? Please provide your reasons.

If the intention is to ensure that investors have sufficient equivalent information on which to take economic decisions, then this would support the approach in Appendix 1. (But see our comments in our covering letter regarding the overall objective – in particular, we do not believe that unquantified disclosures will be sufficient for investors to be able to make similar decisions.).

Question 4: Recital 8 of the Commission Regulation 1787/2006 and recital 7 of the Commission Decision 2006/891/EC of 4 December 2006 state that "the progress of the convergence process should be closely examined before any decision on equivalence is taken". Do you think the existence of a convergence programme between the assessed third country's GAAP and IFRS should play any role in the determination of equivalence, other than facilitating the comparison between the standards and identifying the necessary rectifications?

As noted in our covering letter, we could envisage a scenario (a focus on the environment rather than outputs) that would place emphasis on the existence of a convergence programme.

Under the alternative 'outputs' focus, the existence of a convergence process would assist in preparing the assessment of differences and the periodic re-evaluation of those differences, since these activities are already likely to occur as part of the convergence exercise.

Question 5: Do you agree that filters are important and that they should be reflected in any equivalence mechanism? If so, do you think the CESR's model correctly reflects how consideration of the filters should be incorporated into the mechanism?

No. Our observation is that filters in relation to matters such as corporate governance and the regulatory and enforcement mechanisms of the third country should be considered at the point at which the issuer is accepted onto the securities market or exchange in the EU, and in relation to its continuing listing obligations. We do not see why such filters should be linked specifically to the issue of equivalence of the accounting standards used by the issuer.

As noted in our covering letter, we do not believe that the audit should be regarded as a proxy for all the other filters noted in the consultation paper.

If the financial statements of the issuer contain additional disclosures in order to address equivalence as proposed by paragraph 31, then the auditor should consider those additional disclosures in accordance with the requirements of audit standards. Normally such disclosures should be covered (but not specifically referred to in) the audit report on the financial statements.

Question 6: Do you agree with this proposal (in paragraph 32 regarding ongoing information from the standard setter)? Do you have any suggestions as regards the procedure for providing the envisaged impact assessments which avoids a period of uncertainty for issuers while these are being made?

We believe the proposal will, potentially, result in substantial work for the third country standard setters. The requirement to submit a new impact assessment each time a new local or IFRS standard is issued could result in multiple assessments having to be made in any year. Interpretations are not mentioned, but these could also result in differences and may therefore also require assessment.

If the assessment is tied to IFRS as adopted by the EU, rather than IFRS as issued by the IASB, then this will add considerably to the uncertainty because of the complex process for endorsement and adoption in Europe (involving at least five different institutions: EFRAG, the SARG, the ARC, the Commission and the European Parliament). The present situation with respect to IFRS 8 indicates the possibility for such uncertainty. IFRS 8 was issued by the IASB in November 2006, but has not yet been endorsed in Europe and we understand that consideration by the European Parliament has been postponed until September 2007.