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22 December 2004

M. Fabrice Demarigny  
Secretary General, CESR  
11-13 Avenue de Friedland  
75008 PARIS  
France

Sent via website: [www.cesr-eu.org](http://www.cesr-eu.org)

Our Ref: [ian/cesrequivalence2/ACC3/ACC20](#)

Dear M Demarigny

**Draft Concept Paper on Equivalence of Certain Third Country GAAP  
and Enforcement Aspects**

Further to our 3 July letter in response to your earlier "call for evidence" on this topic, I am writing on behalf of LIBA (the London Investment Banking Association) to respond to the Consultation Paper on the equivalence of certain third country GAAP and on description of certain countries mechanisms of enforcement of financial information, which was posted on the CESR website on 21 October. LIBA is, as you know, the principal UK trade association for investment banks and securities houses; a full list of our members is attached.

LIBA has closely followed the development over the past few years of IAS/IFRS and the related EU infrastructure, and has provided substantive input to successive stages of the process through written representations to key international bodies such as the IASB, EFRAG, CESR and the European Commission, as well as to the corresponding UK bodies, and has also participated in a range of public fora. The global investment banks that form a large part of our membership all have experience of applying a range of different GAAPs, including in most cases all three of those covered by the European Commission's June 2004 mandate to CESR, and are thus particularly well placed to comment on the equivalence issues discussed in this paper.

Overall we support CESR's proposed approach, which we find to be pragmatic and sensible, but we do have a number of comments. These are set out below in the form of responses to certain of the questions posed in the paper; please note that we have not responded to every question.

## Questions from the Concept Paper

*(page 9, after paragraph 5)*

*Q: Do you agree with the proposed definition of equivalence and reference to investors' needs?*

A: We support the proposed definition of equivalence; in particular, we strongly agree that equivalent should not be defined as meaning "identical".

We also support CESR's belief that "third country GAAP can be declared as equivalent to IAS/IFRS when financial statements prepared under such third country GAAP enable investors to take at least similar decision in terms of whether to invest or divest". We would however caution against considering all investors (and potential investors) in the same way. For example, investors (whether existing or potential) in listed debt securities will typically have a different perspective on the information required from financial statements from that of investors in equity securities.

*(page 10, after paragraph 6)*

*Q: Do you agree with (the approach summarised in paragraph 6)?*

A: We support the three-element assessment set out in paragraph 6. In particular, CESR should ensure that the review is not done on an accounting standard by accounting standard basis, and that each GAAP is assessed in its broader context. There are, for example, a number of areas (such as financial instruments) where the formal accounting standards in a particular third country may not be comprehensive, but where GAAP has resulted in established practice that should be considered acceptable for the purposes of this exercise. Similarly, the absence of an accounting standard for a particular area (such as agriculture) should not be considered an issue unless it has specific relevance for the business and/or economic environment of the entity.

*Q: What characteristics should a difference between IAS/IFRS and third countries GAAP have to be perceived as significant for an investor?*

A: We believe that differences should be considered as significant in this context only where there are major differences of principle, such as the absence of a requirement for consolidated accounts, or the exclusive use of historic cost accounting.

*(page 10, after paragraph 7)*

*Q: Do respondents believe that EU investors can be assumed to have a good knowledge of third country GAAP or that IAS/IFRS should be assumed to be the only benchmark?*

A: It is reasonable to assume that professional investors will have a good knowledge of at least US GAAP, and IAS/IFRS should therefore not be assumed to be the only benchmark.

*(page 13, after paragraph 32)*

*Q: Do you believe that the three elements mentioned (in Part B of the Concept Paper) are relevant and sufficient for conducting a review of general principles?*

A: We agree that the European Commission's "four characteristics", together with the topics covered by, and the objectives of, IAS/IFRS are both relevant and sufficient for this review.

*Q: Do you have other views on how to take investors' needs into account in a global assessment?*

A: No, provided that the needs of investors are assessed in the context of the type of investment made and that, as noted above, the needs of investors in debt securities are, where appropriate, considered differently from the needs of investors in equities.

*(page 15, after paragraph 49)*

*Q: Do you agree with the proposed approach (as set out in Part C) for identifying significant differences between third country GAAP and IAS/IFRS?*

A: We agree with the proposed approach set out in Part C. We also suggest that, in the interests of time, as much use as possible should be made of existing comparisons of the different accounting regimes – particularly those prepared by the major international accounting firms.

*(page 16, after paragraph 54)*

*Q: Do you agree that there may be three potential outcomes from the assessment process, as described (in paragraph 52)?*

A: We strongly agree that these three possible outcomes should be permitted.

*Q: Do you agree that the auditor's opinion should cover the original third country GAAP financial statements and the additional remedies? Which level of comfort should be provided for the additional remedies (equal to full audit)?*

A: We agree that the auditor's opinion should cover the original third country GAAP financial statements and we agree in principle that any additional information should also be subject to full audit. We would however ask that cost-benefit considerations be taken into account in considering what additional audited information may be required. This is particularly pertinent where information may be required in a third country, but is not currently subject to a full audit (information in the Management's Discussion and Analysis for SEC filings in the US, for example). We made a related point in our recent (22 October) response to the IASB on ED 7 Financial Instruments: Disclosures, where we said "we would ask the Board to consider whether it could provide guidance for the disclosure of certain information outside the audited financial statements: a possible route might be to issue one or more statements of best practice for disclosures which would be better located elsewhere in the accounts, such as in the Operating and Financial Review."

*(page 17, after paragraph 59)*

*Q: Do you believe that these three different kinds of remedies (as set out in paragraphs 55-59) are appropriate or whether one or more of them would be enough in all circumstances?*

A: We agree that the proposed hierarchy of three different kinds of remedies should be available to deal with the range of differences that may be identified between the third country GAAP and IAS/IFRS. We strongly support CESR's pragmatic approach to this issue, which we believe should minimise unnecessary (and potentially confusing) financial reporting requirements.

*(page 17, after paragraph 64)*

*Q: Do you agree with this approach (to the application of remedies, as set out in paragraphs 62-64)?*

A: We believe that a company and its auditors are in the best position to determine which of the remedies above is most relevant to its own situation. We therefore support the approach proposed, and would not support a more prescriptive approach.

*(page 18, after paragraph 70)*

*Q: Do you agree with this approach (to early warning mechanisms, as set out in paragraphs 65-70)?*

A: We agree with this approach and, consistent with our comments above, suggest that maximum use be made of the work of the major international accounting firms.

We have one further comment relating to paragraph 85. We agree with CESR that there are a number of other situations for third country issuers in Europe that will not be covered by this initial assessment of equivalence. Once CESR has completed this initial assessment, we would request that CESR does all it can to consider those situations where third country issuers are not incorporated in Canada, Japan and US – particularly where such countries allow the use of a GAAP that has been deemed equivalent as a result of this exercise.

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I hope you will find these comments to be helpful; please let me know if there are any aspects of these comments which are unclear, or where CESR might find it useful for LIBA to provide further information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Harrison', with a long, sweeping horizontal stroke extending to the right.

**Ian Harrison**  
**Director**

# **LONDON INVESTMENT BANKING ASSOCIATION**

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