

Our ref
Your ref
Telephone
Date

11 July 2005



The Committee of European Securities Regulators
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Dear Sirs

Consultation Paper: CESR Recommendation on Alternative Performance Measures

We appreciate the opportunity to comment on the proposals which will have a significant impact for listed companies. We support CESR's objective of encouraging listed companies to provide the financial markets with appropriate and useful performance measures.

However, we have some reservations about the proposals. In particular, we strongly disagree with the draft recommendation (paragraph vii) to "present defined measures with greater prominence than alternative performance measures." It is our view that alternative performance measures are as equally important as defined measures in providing information to investors.

Companies should not be restricted in providing information demanded by and designed to be useful to both management and investors. More specifically, Insurance companies use European embedded value (EEV) supplementary reporting which management, investors and analysts place considerable reliance upon. We believe that these measures, based on EEV reporting, which would be considered alternative performance measures under the draft recommendations are of equal or more relevance than defined measures to users.

Overall, we are concerned that the proposals will reduce the flow of useful information reported to investors. At a minimum we recommend CESR redraft the proposals to allow alternative measures to be presented with equal prominence in line with UK Auditing Practices Board guidance and the Sarbanes-Oxley Act.

Our response to the specific questions raised in the consultation paper is detailed in Appendix I. If you would like to discuss any part of our response in more detail please do not hesitate to contact us.

Yours sincerely

ANDREW PALMER
Group Director (Finance)

Response of Legal and General to the questions set out in Consultation Paper: CESR Recommendation on Alternative Performance Measures.

Q1 Should additional elements be considered in terms of background? Do you agree that current practice of presenting alternative financial performance measures justifies CESR's initiative? If no, please indicate why.

We agree that there is a need to explain and justify alternative measures of financial performance.

Q2 Do you think that a recommendation is an appropriate tool for dealing with this issue?

We agree that a recommendation would be the most appropriate method for dealing with this matter.

Q3 Do you agree with this definition of alternative performance measures? If not, please state your reason.

We are concerned that the definition of alternative performance measures is not clear. There is a lack of distinction between supplementary information and alternative presentations of GAAP which will make the practical implementation of the recommendation difficult.

Q4 Do you agree that the principles described in this draft recommendation are valid for any kind of reporting to markets by issuers (with the exception of prospectuses)? If not, please state your reason.

We agree with this statement.

Q5 Do you agree with the scope of this recommendation (paragraph 14) and the content of this recommendation (paragraph 16 to 22)? If not, please state your reason.

- We agree with the draft scope (paragraph 14).
- We agree with paragraph 16 that the fundamental principles embodied in the IASB Framework should be applied to all published financial information however we are concerned with the lack of distinction for performance measures that conform to these principles but are not derived from IFRS.
- We agree with paragraph 17 that issuers should define the alternative performance measures used.
- We agree with paragraph 18 that alternative performance measures should be presented in combination with defined measures and that investors should be provided with enough information to fully understand the results and financial position of the company. We are concerned that the wording of paragraph 18 relating to the explanation of differences between alternative performance measures and defined measures is vague.
- We agree with paragraph 19 to provide comparatives.
- We agree with paragraph 20 to present alternative performance measures consistently over time.

- As outlined in our covering letter we strongly disagree with paragraph 21 that defined measures should be presented with greater prominence than alternative measures. It is our view that alternative measures are as equally important as defined measures in providing information to investors and we believe the two measures should be presented with equal prominence.

It is important that companies are not restricted in providing information that is deemed to be relevant and useful to both internal management and investors. Insurance companies use European embedded value (EEV) supplementary financial reporting which management, investors and analysts place considerable reliance upon. The EEV methodology is designed to provide users with more realistic information on the financial position and performance of insurance companies.

We believe that the headline measures based on EEV reporting which would be considered “alternative performance measures” under the draft recommendations are at a minimum, of equal relevance to users as defined measures are. Furthermore, we would draw CESR’s attention to the views of the IASB, in the near final draft of IFRS 7, which supports an insurer’s use of embedded value techniques in providing sensitivity analysis.

We would also highlight that the UK Auditing Practices Board guidance and the US Sarbanes-Oxley Act do not require the presentation of defined performance measures to be presented with greater prominence but allows them to be presented with a minimum of equal prominence.

- We agree with paragraph 22 that issuers should explain why alternative performance measures are presented and how they are used internally.

Q6 Do you agree with CESR’s recommendation to involve the auditor in relation to alternative performance measures? If not, please state your reason.

We agree that auditors should be involved in presenting alternative performance measures but are concerned that the wording in paragraph 23 is vague. It will be necessary to define the scope of the auditor’s involvement.