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Dear Andres and colleagues,

Further to the second draft Consultation Paper of November 2004 on the implementation measures of the Transparency Directive for the European Union, our meeting of December 7th 2004 and the documents received hereby my considerations and advice.

I agree with the report apart from three amendments being (i) the actor that should be required to make the notification in relation to the acquisition or disposal of major proportions of voting rights, (ii) the conditions of independence to be complied with by management companies or investment firms and their parent undertakings to benefit from the exemptions and (iii) the half yearly report.

Regarding the actor that should be required to make the notification in relation to the acquisition or disposal of major proportions of voting rights I understand that currently it is difficult to reach consensus amongst the European members. Nevertheless it is my conviction that only one simple principle has to be leading being "the entitlement to exercise voting rights". My arguments against the alternative solution of notifications through all natural persons and legal entities involved is (i) the redundancies stemming from it eventually resulting in inconsistent data and information, (ii) the complexity stemming from having multiple information flows resulting in intransparency (even apart from the need for reconciliations), (iii) the intransparency resulting in vague responsibilities and (iv) the work stemming from it resulting in very high costs and energy of compliance. In brief, the simplest principle (voting rights) should be leading. Having said that I am fully aware of some minor exceptions to this principle but those exceptions should not set the European standard.

Regarding the condition of independence to be complied with by management companies or investment firms and their parent undertakings to benefit from the exemptions I emphasize that a liberal and self regulatory system based on trust with some overall verifications will be the most adequate in this case. In terms of the verifications it should be sufficient that the parent undertaking (i) must be able to demonstrate that the voting rights are exercised independently by having implemented written policies and procedures reasonably designed to prevent the distribution of information between the parent undertaking and the management company or the investment firms that relate to the exercise of voting rights and investment decisions over securities and (ii) it sends a declaration to the competent authority. In all cases the management company or the investment firm has to prove that it adheres to and meets the relevant requirements of the UCITS Directive and the MiFID.

Regarding the half yearly report I reemphasize to adhere to the European standards. I hold the conviction that the local GAAP's eventually will be absorbed by the IFRS. The minimum content of the half yearly report has to be derived solely from the IAS 34. There should be no upfront obligation to certify the half yearly reports by an auditor (given that this will not give additional comfort given the scope and nature of such reports as explained in my former advice). Also for the guidance of the auditors' professional responsibilities the IFAC 2400 has to be leading (the international standard on review engagements) as well as the standard for "review of interim financial information" that currently is in progress. At all times it should be clear and thus explicit what (i) the demarcation of responsibilities between executives and auditors are as well as what (ii) the added value of an interim statement or interim work of auditors is. Finally, it is important for the profession of auditors that they define their own professional responsibilities and accountabilities instead of continuing the process of simply transferring responsibilities to the management.

As already pointed out in the way of working with the European Union and its bodies of advice, this contribution holds my best professional opinions and advices. These opinions or advices do not have to reflect those of Dutch (investment) companies, the opinion of ABP and-or the opinion of the Dutch professional bodies of which I am a member.

In the case you have additional questions or would like to receive additional information please do not hesitate to contact me.

With best and personal regards as well as looking forward to our next meeting,

Ton Berendsen