



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

UBS AG
Postfach
CH-8098 Zürich
Tel. +41-1-234 11 11

Ralph Odermatt
Stockerstrasse 64
Zurich
Tel. +411-236-8410
Fax +411-236-8800
ralph.odermatt@ubs.com

www.ubs.com

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Alternative Performance Measures

Dear Committee Members:

UBS welcomes the opportunity to provide comments on the CESR consultation paper, *Recommendation on Alternative Performance Measures*. UBS is a financial services firm whose global registered shares are listed on the Swiss, New York, and Tokyo Stock Exchanges. Therefore, in addition to preparing primary group financial statements in accordance with IFRS, we reconcile to US GAAP. In addition, we prepare Parent Bank financial statements in accordance with Swiss GAAP. We are thus keenly aware of the need for high quality financial reporting standards, which facilitate the international comparability of financial statements.

UBS generally supports CESR's recommendations on the use and presentation of alternative performance measures. However, we believe that certain provisions should be further considered before final recommendations are issued. In particular, we believe that the scope of the recommendations should be clarified to state whether it intends to cover any alternative performance measure or only those calculated based on modified IFRS financial data (e.g. non-GAAP measures). We recommend that the scope be limited to non-GAAP performance measures.

Further, we would like to highlight a potential conflict between the recommendations in the consultation paper and the IASB's new standard on financial instrument disclosures, IFRS 7. IFRS 7 requires quantitative risk disclosures based on the information provided to key management. Information provided to key management may include performance measures not based on, or modified from financial data (e.g. Value at Risk (VaR)). Therefore, the disclosures under the new standard may contain information that cannot be reconciled to the financial statements. However, we do not believe that disclosures under IFRS 7 should be given less prominence than other financial disclosures. We recommend that CESR consider modifying its scope to exclude alternative performance measures required to meet the disclosure and reporting objectives under an existing IFRS.

We have included responses to the specific questions asked in **Appendix A** of this letter.

We hope you find our comments useful. Should you wish to speak with us on this topic, your contacts are Ralph Odermatt, Managing Director (+41 1 236-8410) and John Gallagher, Managing Director (+1 203 719-4212).

Regards,

UBS AG

Ralph Odermatt
Managing Director
Accounting Policies and Support

John Gallagher
Managing Director
Accounting Policies and Support

Appendix A

Question 1 - Should additional elements be considered in terms of background? Do you agree that current practice of presenting alternative performance measures justifies CESR's initiative? If not, please indicate why.

Answer – We agree that guidance is important to ensure consistent presentation of performance measures among financial reporting entities. Relevant and reliable presentation of performance measures benefits the development of markets as investors can rely on high quality consistent information.

Question 2 - Do you think that a recommendation is an appropriate tool for dealing with this issue?

Answer - Yes, we agree that a recommendation is appropriate to deal with this issue, subject to our comments below.

Question 3 - Do you agree with this definition of alternative performance measures? If not, please state your reason.

Answer - We believe that the definition of an alternative performance measure as anything other than revenue, profit or loss, and earnings per share is too broad. We believe that other measures currently exist within IFRS (e.g. return on plan assets), and may be defined in the future. In an interview with the Hong Kong Institute of Certified Public Accountants, Sir David Tweedie recently stated, "accounting standards are likely to change again over the next few years – and probably more than once." In light of this evolving platform, we believe that the definition of a defined performance measure is too restrictive and does not allow for any changes in the accounting literature or flexibility in interpretation of accounting principles. Therefore we recommend that the CESR define an alternative performance measure as follows:

"An alternative performance measure is any measure other than that required to be disclosed under IFRS. Examples of measures required under IFRS include, revenue, profit or loss and earnings per share."

Question 4 - 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.

Answer - Yes, we agree that the principles should be applied to any kind of financial reporting to ensure consistent information is provided to investors and analysts.

Question 5 - 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.

Answer - We believe that the CESR should clarify the scope of its recommendation to state whether the consultative paper intends to cover any measure not specifically defined in IFRS, or only those, which are calculated based on modified IFRS numbers (e.g. non-GAAP disclosures). For example, many institutions include in their financial reports key performance indicators that are based on defined IFRS performance measures (e.g. cost income ratios). These are not specifically defined in IFRS, however

they are calculated using unadjusted IFRS measures. We believe that the paper should only cover those disclosures based on modified IFRS measures.

We do not agree with the recommendation that defined measures should be presented with greater prominence than alternative performance measures. Certain performance indicators are not defined in IFRS, but are industry benchmark measures that are generally understood by users. These measures may be provided in the front of a financial report, or as part of the management discussion and analysis, accompanying the audited IFRS reports. Provided these measures are defined, we do not believe that the data is misleading, nor do we believe that less prominence should be given to these disclosures. We therefore recommend that the paper be modified to state that alternative performance measure may not be given more prominence than a defined measure.

<p>Question 6 - Do you agree with CESR's recommendation to involve the auditor in relation to alternative performance measures? If not, please state your reason.</p>
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Answer – We do not believe that it is necessary to include a recommendation to involve auditors in determining the alternative performance measures that an entity discloses. The financial statements and investor communications are the responsibility of management. Auditors must be informed of the intended disclosures and sign-off on the reliability and reasonableness of those disclosures, however we believe that it should be management's responsibility to determine the appropriate alternative performance measures and the extent of auditor involvement in this process.