Mr Valdis DOMBROVSKIS
Commissioner

European Commission - Financial Stability,
Financial Services and Capital Markets Union (FISMA)

Sent online

Paris, 19th July 2018

Subject: European Commission's consultation document Fitness check on the EU public reporting framework for public reporting by companies

Dear Commissioner Dombrovskis,

We welcome the Commission's initiative to undertake a fitness check on the important topic of the regulations (Framework) that govern the public reporting by European companies. It is indeed a good governance that the European regulations are assessed periodically, even though the recent revision of the Accounting Directive (2013, with national transpositions in 2016 for a large number of Member States) and the even more recent introduction of non-financial reporting requirements with an effective date of 2018 make it difficult at this point in time to fully assess their effectiveness.

The French auditing and accounting profession, represented by the CNCC and the Conseil Supérieur des Experts Comptables through their joint committee DIPAC, is deeply involved in the corporate reporting agenda and believes that transparency of financial and non-financial information published by companies is an essential condition for the confidence of stakeholders, which conditions investment decisions and ultimately a sustainable economic growth. Hence, we welcome the opportunity provided by this fitness check to share our views with the Commission.

The views expressed in this letter include explanations of, and additional information on, the responses made to the questionnaire. We believe it is important that these views are considered as we found the wording of some questions somewhat ambiguous, and we needed to accompany our assessment with explanatory comments to reflect fairly our position.

Our responses build on our previous responses to consultations by the Commission, such as the report presented by Mr Philippe Maystadt (3rd October 2013), the questionnaire on the assessment of the IAS Regulation EC/1606/2002 (6th November 2014) and the consultation on Building a capital markets union (11th February 2016).

Overall assessment of the EU Public Reporting Framework

Overall, we assess the current state of the EU Public Reporting Framework as sufficiently complete and relevant even if we are in principle supportive of further harmonisation when appropriate. In some respects, it is too early to assess the quality of the non-financial public information that will be reported by larger companies, and how it will change their corporate behaviour and the investors' attitude to long-term investment and sustainability.

We believe that the EU Public Reporting Framework is overall coherent, well designed and proportionate. Based on our assessment of the non-financial reporting legislation introduced in France, which bears resemblance with the EU Public Reporting Framework, it should in principle be effective in progressing towards the achievement of the stated policy goals, which we strongly support. We also support the Commission's plan to develop further its non-binding guidelines and as part of that we encourage EU integrated reporting initiatives.

Financial reporting in accordance with national standards or legislations resulting from the Accounting Directive (non - listed companies)

In an ideal world, it is true that harmonised national requirements would facilitate cross border business and establishment within the EU. However, more realistically, we acknowledge that the differences that may exist between the national requirements and/or (Member States) options that have been introduced in more recent directives just reflect the fact that, at present times, it may not yet be possible or appropriate to move directly to a fully harmonised basis within the EU in the field of public reporting. Indeed, there are often inter-connections between public reporting and other areas such as taxation, capital maintenance/solvency requirements and dividends distribution capacity, which make it difficult to make progress if those other areas are not tackled at the same time.

We believe that the differences in the national transpositions of the Accounting Directive are not in themselves a significant obstacle to doing business within the EU. Therefore, reducing the variability of standards from one Member State to another, while theoretically desirable, would not appear to us a priority for the Commission. In addition, as there is, in our French environment, a strong linkage between the basis used for taxation of profits and the amounts reported in the individual financial statements, discussing further the accounting harmonisation for the preparation of the individual financial statements requires holding at the same time discussions on the determination of taxable income. We are aware that such a strong link between financial and tax reporting may not exist in all other EU jurisdictions. In our view, any discussions on possible further harmonisation of the financial reporting requirements within the EU may trigger discussions about the purpose of the individual financial statements and how they are used. A common shared view at an EU level on such key questions would be a preamble to any further harmonisation project.

If the Commission considered that it is a priority to work on further harmonisation of national accounting requirements, we recommend that the Commission should first undertake a survey of the Member States choices with regards to the options offered in the Accounting Directive, to assess the extent to which the national accounting rules diverge and its impact.

Note that there is limited support within our Institutions for the preparation and adoption of a European Conceptual Framework as such, although it is acknowledged that the harmonisation of accounting principles at the European level could be further progressed through the Directive.

We have reservations about establishing a “pan-EU GAAP” other than in the context of an enhanced and more harmonised Accounting Directive. It would add another layer of GAAP for which we do not see the overall benefits.

We finally note that the IAS Regulation 1606/2002 contains options for Member States to require or allow the use of IFRSs by different types of entities other than those listed on a regulated market, and therefore provides an appropriate legal basis for the purpose of further harmonisation in Europe in the context of an increasingly globalised economy.

Financial reporting by companies listed on a regulated market and by non-listed entities that opt for reporting under IFRSs

As we already reported to the Commission in our responses to its previous consultations, we believe that IFRSs should remain the reporting language for the consolidated financial statements of listed companies in the EU. Such standards are the only ones which have the potential to become globally accepted and to respond to the needs of a global economy. We believe that global standards better serve the European businesses and market participants than regional standards.

We note that positive convergence trends and IFRS adoption initiatives, either at national level or by individual companies, are taking place in other major economic areas such as China, India, Japan, etc. We appreciate the importance of Europe’s continuing support to IFRSs which has made this momentum possible.

- IFRSs endorsement process and criteria

We reiterate our support for submitting IFRSs to a rigorous endorsement process before introducing them into the EU legal framework. It is equally important that the EU remain influential on the IASB throughout the course of the development of the standards. So far, we consider that the EU is currently sufficiently equipped in terms of structure, processes and tools in order to both achieve the desired influence on the IASB and assess the suitability of IFRSs for use in Europe. A “live test” on a major standard will take place shortly with the on-going endorsement of IFRS 17, Insurance Contracts. We will monitor closely the outcome of this process.

Allowing more flexibility in EU accounting standards for listed companies may set in motion an unpredictable trend that could lead to creating over time European rather than global standards, with the consequence that this would isolate Europe from global capital markets and may hinder investment by non-EU providers of capital as it would create confusion in the marketplace. This could also result in having the opposite effect of weakening the EU global leadership that resulted from its early and complete adoption of IFRSs.

In response to its legitimate concerns, Europe should rather seek to exert an increasing influence on the IASB through national, European-wide and international pro-active engagement, e.g., in participating from the early phases in the IASB's projects, in conducting field-tests and impact analyses. In the past, and moreover thanks to the Maystadt reform, this collaborative attitude has been efficient and, in several instances, the IASB has modified in due course the proposed standard or withdrawn interpretations that were considered problematic.

We also note that the new notion of 'carve in' referred to in the questionnaire is quite generic and that the conditions and processes that would be required have not been explained yet. Therefore, we are not in a position to express strong views about the need for such a process at this stage. Nevertheless, we wish to draw the Commission's attention to the technical problems that would be caused by replacing large or small parts of a published international standard with an alternative solution designed only for use in the EU.

First, it should be decided whether such 'carve in' is optional or mandatory for all European entities, and to assess the possible consequences on the capacity to use such 'carved-in' financial statements on foreign capital markets and on the comparability and level-playing field in the internal market.

Second, introducing alternative requirements in an IFRS standard that was originally developed as a homogeneous and integral set would risk impairing its internal consistency and creating unintended consequences. The development of an alternative accounting solution, including the necessary due process to ascertain its technical quality and feasibility, would be time-consuming and expensive. By definition, the matters that may necessitate a 'carve out /carve in' are complex and highly controversial.

- IASB's Conceptual Framework

We do not oppose the arguments put forward in support of a more formal recognition in the EU of the IASB's Conceptual Framework for Financial Reporting, particularly as this document is an important part of the IFRS literature. However, it would be quite important that a more formal recognition does not result in the IASB's Conceptual Framework having in the EU a status different from the one conceived by the IASB, i.e. a set of general principles and objectives that guide the international standard setter (and possibly preparers of financial statements) in developing accounting solutions that meet the objectives of financial reporting. As of today, the 'soft' recognition provided by the endorsement of IAS 1 and 8 (which refer to the Framework) has not resulted in major difficulties.

- Sustainability and long-term investment

We consider that the transparency and comparability of information provided by the public reporting framework contribute greatly to the objectives sought for with respect to sustainability and long-term investment. We also believe that influencing companies so that they focus more on long-term and sustainable investment policies is better achieved by the use of appropriate tax and other financial incentives, by having tailored prudential requirements and by the growing pressure of market forces.

Nevertheless, it is key that the endorsement process allows for the consideration of adverse side effects, if any, of accounting standards. Investors' behaviours can also be modified by the provision in the annual reports of more relevant information about corporate governance, business models, value creation policies, rationale for investment decisions and key performance indicators (financial and non-financial).

Accordingly, we do not support changing the existing EU endorsement criteria in respect of long-term investment and sustainability. We support that, in continuation with present practice, EFRAG is asked by the Commission, as part of the 'EU Public Good' criteria assessment, to evaluate IFRSs against these (and other) objectives on a case-by-case basis.

Financial Reporting by Banks and Insurance entities

We note that in France a large majority of banks and some of the largest insurance entities are (part of) groups that prepare their consolidated financial statements in accordance with IFRSs. So, it is only a limited number of smaller banks and a larger number of insurance undertakings (e.g. benefit societies) that still report under French GAAP.

The BAD and IAD have served their purpose, particularly in providing harmonised formats of presentation of the financial statements for banks and insurance undertakings, which do not exist in IFRSs. Over time, the recognition and measurement principles in those directives have been found incomplete and in certain instances have become obsolete. In theory, they would necessitate a major overhaul. However, it does not appear an optimal solution to undertake such a time-consuming and complex exercise when a growing number of entities report under IFRSs. In addition, there is a need to gain more experience with the implementation of IFRS 9 and to wait for the outcome of the EU endorsement of IFRS 17 before considering the way forward.

In theory, requiring or allowing the preparation under IFRS of the individual financial statements of banking and insurance undertakings that belong to a group may facilitate the intra-group reporting, and make the information provided at the individual entity level more consistent with that published at group level. However, we are aware of the need to prepare entity-level information that complies with specific national requirements, for instance for tax purposes and for the determination of policy holders profit-sharing. In this context, an evolution in the basis used for preparing the individual financial statements of banks and insurance companies is a complex matter to be considered by national governments and the relevant prudential regulators.

In any case, we believe that as financial reporting and prudential reports serve different purposes, the former should not be aligned with the rules of the latter.

Non-Financial Reporting requirements

The topics addressed in the recent non-financial reporting requirements have been considered important issues in the past and will no doubt remain relevant to stakeholders in the future.

On the basis of our positive experience with similar legislation introduced in France in the recent past, we expect that the new EU legislation and non-binding Guidelines are a good first step and will improve the behaviours over time. As the EU Directive became effective only recently and as the first reports on these matters will be released in a few months' time in France, it is too early to provide feedback on the effectiveness of the policies and indicators disclosed by companies. Furthermore, it will take time to assess whether those disclosures and the resulting investors' reactions will have any significant impact on the behaviour of management and on corporate governance.

Experimentation and innovation in the marketplace should be encouraged and monitored by the proposed Corporate Reporting Lab, which creation we applaud. The Commission should during this first experimentation period avoid adopting too prescriptive additional requirements.

We believe that a certain level of independent verification of the information reported by issuers on non-financial matters would increase the benefits to the users of such information, by fostering greater consistency and discipline.

Digitalisation and Electronic structured reporting (ESEF and EEAP)

We support in general the move towards electronic reporting and the central filing of data by listed entities under a regulated format. We support an EU principles-based framework for electronic reporting which should be progressively extended beyond the scope of financial information, as well as a single EU access point to link to individual company's websites. Digitalisation of information also has the prospect to better link financial information to the non-financial information.

The EU regulatory framework is not an obstacle to digitalisation. It needs to allow for future innovation and be adaptable; given the speed of innovation, we believe it is too early to commit to a single form of reporting technology. Having such flexibility is especially important for SMEs.

Pending the publication of the relevant implementation guidance (RTS) by ESMA, and before a wide-scale test of that system by issuers and users of information, it is too early to assess the costs and benefits of the proposed ESEF system. Therefore, we do not support at this stage and in the short term a mandatory extension of digital reporting to non-listed entities or extending the use of structured reporting beyond those areas currently covered.

Finally, there is a need to organize effective means of protecting the integrity of digital information, for instance by using third-party verifications. It would be advantageous to work towards international standards or to endorse best practices to that end.

Conclusion

Overall, the present EU Public Reporting framework adds value, is relevant and complies with the principle of proportionality. We see no need for any substantive change to the current regulations and

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we believe that there is a widely perceived need for stability during the implementation period which will take a few years.

Our answers to the specific questions can be found in the response to the survey.

For further information on this letter and the response to the survey, please contact Cédric Gélard on +33 (0)1 44 15 60 95 or via email at cgelard@dipacint.com.

Sincerely,

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