

[cab-dombrovskis-contact@ec.europa.eu](mailto:cab-dombrovskis-contact@ec.europa.eu)

Vice-President Dombrovskis  
Commissioner for Financial Stability,  
Financial Services and Capital Markets Union  
European Commission  
Rue de la Loi 200  
B – 1049 Bruxelles  
Belgium

3 January 2017

Dear Commissioner

**International Financial Reporting Standards (IFRS) and IFRS 9 endorsement**

Thank you for your reply of 9 December 2016 to my letter to President Junker dated 7 October 2016.

**Requirements of law**

We are pleased that your letter recognises that the requirements of the Capital Maintenance Directive 2012/30/EU are essential to the endorsement of IFRS under the IAS Regulation. That is consistent with Lord Hill's written answer to Syed Kamall MEP (E-016071/2015 of 9 February 2016) and is consistent with the fact that the IAS Regulation 2002 has not changed the purpose of accounts as set out in the Accounting Directive (2013/34/EU) which is for member and creditor protection.

Other than written answer E-016071/2015, this is the first time we have seen this recognition by the Commission since IFRS has been adopted.

**The anomaly of IFRS – it has a counter objective**

However, we are still left with the problem that the International Accounting Standards Board (IASB) does not set standards to meet that objective, nor is there any public evidence setting out how the European Financial Reporting Advisory Group (EFRAG), the ARC, or the Commission considered it. Indeed, EFRAG positively denied that objective in its endorsement advice for its most recent project on the endorsement of IFRS 9, and the ARC's 'non-paper' on true and fair view presented at the June 2016 meeting did not deal with it either.

Taking things back further, it is clear that problems were hard-wired into EFRAG from that Group's inception. It is a matter of fact that the first Chairman of EFRAG from 2004/5 (Mr Enevoldsen, then a Deloitte partner) had been the Chairman of the IASB when IAS 39 was created by the IASB in 1998.

EFRAG passed IAS 39 as meeting the endorsement criteria when, as now, EFRAG did not actually have the correct endorsement criteria. Indeed the following quote from Mr Enevoldsen indicates that EFRAG never challenged the IASB properly as it was acting as champion:-

*"It has been hard work and very fascinating being in EFRAG. And it has sometimes been difficult working with the IASB. I do not think that David Tweedie and the [IASB] Board members realised how much I really supported them in Europe. We yelled and screamed but we took on many of the fights in Europe so they did not have to. And in the end we always ended up recommending endorsement of what they issued. It was sometimes difficult. I had to promote EFRAG but at the same time support the IASB.<sup>1</sup>"*

It is quite clear that certain IFRS have not only been adopted in error, but the outcomes in practice fail to meet the standard of the Accounting Directive and the Capital Maintenance Directive. It is an observable fact that key European banks would not need stress tests to reveal their insolvency if their accounts gave a true and fair view. Accounting that masks insolvency is not protecting members, creditors, or the wider public.

## **IFRS 9**

In the light of the above there is no publicly available evidence that IFRS 9 has actually been endorsed properly, by the Commission, EFRAG or the Accounting Regulatory Committee.

We also cannot agree with your statement that *"neither the Parliament nor the Council raised any objections to the endorsement of IFRS 9"*. Para 9 of the Parliament Resolution of 6 October 2016 expressly calls on the Commission to secure compliance of IFRS 9 with the Capital Maintenance Directive. That is clear evidence that the Parliament is of the same view as LAPFF that – by 6 October 2016 – it had not been demonstrated that IFRS 9 does comply.

Please also note my letter was not a criticism of the people seconded to the Commission, and I made that explicitly clear. My point was a criticism of the conflicts secondments create if a person is seconded from a body (the FRC) that has been making mistakes. It is clear from a recent Freedom of Information Act request that the UK Financial Reporting Council ('FRC') has not only misrepresented the legal position on "true and fair view" but has also misrepresented the position of the UK Government.

Unless the Commission can demonstrate transparently and objectively that the endorsement of IFRS 9 has properly taken account of member and creditor protection (including the relevant parts of the Capital Maintenance Directive) we believe that there will be a very clear case of maladministration. On that basis we do request a reply within 30 days setting out any such evidence, rather than merely assertions without evidence.

Yours sincerely



Councillor Kieran Quinn, Chair of LAPFF

contact via [tessay@pirc.co.uk](mailto:tessay@pirc.co.uk)

Cc: Syed Kamall MEP  
Sven Giegold MEP  
  
Steve Baker MP  
Jonathan Reynolds MP

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<sup>1</sup> Deloitte Website "The IAS Plus Interviews"

<http://www.iasplus.com/en-gb/news/2011/October/the-ias-plus-interviews-stig-enevoldsen-former-efrag-chairman>