

	
EUROPEAN PARLIAMENT	2009 - 2014

Committee on Economic and Monetary Affairs

2011/0308(COD)

05.3.2012

DRAFT OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council
on the annual financial statements, consolidated financial statements and
related reports of certain types of undertakings
(COM(2011)0684– C7-0393/2011 – 2011/0308(COD))

Rapporteur: Wolf Klinz

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SHORT JUSTIFICATION

Background

On 25 October 2011 the Commission published a proposal replacing and amending Accounting Directives (78/660/EEC and 83/349/EEC) with the particular aim to reduce the administrative burden for small companies.

Both Accounting Directives have been in place for the past 30 years and provide a complete set of rules for the preparation and content of statutory financial statements. Since listed companies became subject to the IAS regulation in 2005, SMEs have become de facto the main users of the Accounting Directives.

The Commission proposes to replace these two Directives by a single Directive that is better adapted to the present and future needs of preparers and users of financial statements. The current proposal is complementary to the 2009 proposal on the financial statements of micro-entities, which was adopted by the European Parliament on 13 December 2011.

Following the impact assessment carried out in 2009-2011, the Commission aims at reducing the administrative burden by 25% by 2012 and foresees potential savings of €1.5 billion per year for all companies falling under the scope of the Directive.

The rapporteur considers the following points to be of particular importance:

Considerations

First of all, as regards the *scope* of the proposal, the rapporteur considers that the increased and EU-wide harmonised thresholds for *small companies* (Article 3) will help them to benefit from a level playing field across the EU. The rapporteur is in favour of the limitation of the accounting areas in annexes and no requirement for a statutory audit.

Regarding *medium-sized and large companies* the rapporteur supports the proposed thresholds, however is of the opinion that medium-sized and large companies shall furthermore be required to prepare a mandatory *cash flow statement*, which would ensure sufficient and timely information about the situation of companies on the one hand and better liquidity management of banks funding those companies on the other. Especially a mandatory, regularly audited cash flow statement could potentially be a link to the assessment of the banks' inflows under the new Liquidity Coverage Requirement under Basel III / CRR.

The rapporteur is strongly in favour of proposals of the Commission to *cut red-tape*; he believes that further simplification is still possible. Some of the Commission's current proposals removing national discretion would be burdensome for industry in Member States. Therefore the rapporteur suggests preserving national discretion as removal does not appear to add value to the process and to the companies' statements themselves.

Regarding the *IFRS for SMEs* the rapporteur supports the decision of the Commission not to introduce it. The harmonised Accounting Directive will ensure that a well-proven standard for SMEs in Europe is in place, which also will reflect the specificity of European company law.

The rapporteur is in favour of introducing the mandatory preparation of financial statements under an electronic, multi purpose format: *eXtensible Business Reporting Language (XBRL)*, which was already requested by the European Parliament in the past in the "Lamfalussy follow-up - Future Structure of Supervision (2008/2148 (INI))" and "Small Business Act (2008/2237(INI)) resolutions. He believes that a number of benefits brought by one harmonised electronic format could contribute to the creation of a one-stop shop reporting system used in other fields, for example taxation. However, mandating XBRL could be quite burdensome for many small companies, therefore the rapporteur suggests introducing it after appropriate preparation (including involvement of ESMA) from 2018.

The Commission proposes new country-based and project-based reporting requirements for large companies and public interest entities active in the extractive industries or in the logging of primary forests (*Reporting payments to governments*). The rapporteur generally supports the Commission's objectives of more transparency of exploitation of natural resources; however, he believes that a balanced approach has to be chosen. Therefore he suggests limiting the scope of this provision to companies and entities with a net turnover above EUR 500 Million and to payments above EUR 100.000. Besides legislative proposals the rapporteur would like to point to the international Extractive Industries Transparency Initiative (EITI) gathering currently 35 countries, none of which is a EU Member State and would like to draw the attention of the Commission and Member States to a possible common EU-approach towards this initiative.

Aiming to enhance the transparency of the largest companies and their cross-border operations in non-extractive fields the rapporteur suggests to introduce a special *Country-by-country reporting (CBCR)* with crucial financial data for countries, where companies operate without own subsidiaries (or separate legal entities) or in joint-ventures. The scope should be limited in the same way as for the extractive industries.

Finally, the rapporteur would like to amend Regulation 1606/2002 in order to grant the Commission the right to decide on the applicability of international accounting standards by means of delegated acts to follow the provisions of the Lisbon Treaty.

AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive

Title

Text proposed by the Commission

Amendment

Proposal for a DIRECTIVE OF THE

Proposal for a DIRECTIVE OF THE

EUROPEAN PARLIAMENT AND OF
THE COUNCIL on the annual financial
statements, consolidated financial
statements and related reports of certain
types of undertakings

EUROPEAN PARLIAMENT AND OF
THE COUNCIL on the annual financial
statements, consolidated financial
statements and related reports of certain
types of undertakings, **and amending
Regulation 1606/2002**

Or. en

Amendment 2

Proposal for a directive Recital 12a (new)

Text proposed by the Commission

Amendment

***(12a) Medium-sized and large
undertakings should be required to
prepare a cash-flow statement, which
would ensure the provision of sufficient
and timely information about the situation
of companies and better liquidity
management for banks funding those
companies.***

Or. en

Amendment 3

Proposal for a directive Recital 24

Text proposed by the Commission

Amendment

(24) Associated undertakings should be included in consolidated accounts by means of the equity method. Member States should be entitled permit or require that a jointly managed undertaking be proportionately consolidated within consolidated financial statements.

(24) Associated undertakings should be included in consolidated accounts ***either*** by means of the equity method ***or by means of the book value method.*** Member States should be entitled ***to*** permit or require that a jointly managed undertaking be proportionately consolidated within consolidated financial statements.

Or. en

Amendment 4

Proposal for a directive Recital 27

Text proposed by the Commission

(27) ***The Member States are strongly encouraged to develop electronic publication systems that allow undertakings to file accounting data, including statutory financial statements, only once and in a form that allows multiple users to access and use the data easily. Such systems*** should, however, ***not*** be burdensome to small and medium-sized undertakings.

Amendment

(27) ***A harmonised electronic format for reporting would be very beneficial for undertakings established in the Union, since it would facilitate the creation of a one-stop-shop reporting system which could also be used in other fields. Therefore, preparation of financial statements in eXtensible Business Reporting Language (XBRL) should be mandatory with effect from 1 January 2018, after an appropriate period has elapsed for preparation and testing. Creation of such a system*** should ***not***, however, be burdensome to small and medium sized undertakings.

Or. en

Amendment 5

Proposal for a directive Recital 33

Text proposed by the Commission

(33) The reports should serve to facilitate governments of resource-rich countries in implementing the EITI Principles and Criteria and account to their citizens for payments such governments receive from undertakings active in the extractive industry or loggers of primary forests operating within their jurisdiction. The report should incorporate disclosures on a country and project basis, where a project is considered as the lowest level of operational reporting unit at which the

Amendment

(33) The reports should serve to facilitate governments of resource-rich countries in implementing the EITI Principles and Criteria and account to their citizens for payments such governments receive from undertakings active in the extractive industry or loggers of primary forests operating within their jurisdiction. The report should incorporate disclosures on a country and project basis, where a project is considered as the lowest level of operational reporting unit at which

undertaking prepares regular internal management reports, such as a concession, geographical basin, etc and where payments have been attributed to such projects. ***In the light of the overall objective of promoting good governance in these countries, the materiality of payments to be reported should be assessed in relation to the recipient government. Various criteria on materiality could be envisaged such as payments of an absolute amount, or a percentage threshold (such as payments in excess of a percentage of a country's GDP) and these can be defined through a delegated act.*** The reporting regime should be subject to a review and a report by the Commission within ***five*** years of the entry into force of the Directive. The review should consider the effectiveness of the regime and take into account international developments including issues of competitiveness and energy security. The review should also take into account the experience of preparers and users of the payments information and consider whether it would be appropriate to include additional payment information such as effective tax rates and recipient details, such as bank account information.

the undertaking prepares regular internal management reports, such as a concession, geographical basin, etc and where payments have been attributed to such projects. ***As regards materiality, the report should exclude any payments that do not exceed EUR 100 000 or payments that have been attributed to a project with an overall cost of less than EUR 25 million.*** The reporting regime should be subject to a review and a report by the Commission within ***three*** years of the entry into force of the Directive. The review should consider the effectiveness of the regime and take into account international developments including issues of competitiveness and energy security. The review should also take into account the experience of preparers and users of the payments information and consider whether it would be appropriate to include additional payment information such as effective tax rates and recipient details, such as bank account information.

Or. en

Amendment 6

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) In order to take account of future changes to the laws of the Member States and in the legislation of the Union concerning company types, the Commission should be empowered to adopt delegated acts in accordance with

Amendment

(35) In order to take account of future changes to the laws of the Member States and in the legislation of the Union concerning company types, the Commission should be empowered to adopt delegated acts in accordance with

Article 290 of the Treaty in respect of **updating the lists of undertakings contained in Annexes I and II. The use of delegated acts is also necessary to adapt** the undertaking size criteria, as with the passage of time inflation will erode their real value. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. In order to ensure a relevant and appropriate level of disclosure of payments to governments by the extractive industry and loggers of primary forests and to ensure uniform application of this Directive, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty in respect of the specification of the concept of materiality of payments.

Article 290 of the Treaty in respect of **adapting** the undertaking size criteria, as with the passage of time inflation will erode their real value, **and for the purposes of adopting international accounting standards. Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards¹ should be amended accordingly.** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. In order to ensure a relevant and appropriate level of disclosure of payments to governments by the extractive industry and loggers of primary forests and to ensure uniform application of this Directive, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty in respect of the specification of the concept of materiality of payments.

¹ *OJ L 243, 11.9.2002, p. 1.*

Or. en

Amendment 7

Proposal for a directive Article 1 – paragraph 2

Text proposed by the Commission

2. The Commission shall be empowered to adapt, by means of delegated acts in accordance with Article 42, the lists of undertakings contained in Annexes I and II referred to in paragraph 1.

Amendment

deleted

Or. en

Amendment 8

Proposal for a directive Article 2 – point 7

Text proposed by the Commission

(7) 'Production cost' means the purchase price of raw materials, consumables and other costs directly attributable to the item in question. A reasonable proportion of other costs indirectly attributable to the item in question *may* be included to the extent that they relate to the period of production. Distribution costs shall not be included;

Amendment

(7) 'Production cost' means the purchase price of raw materials, consumables and other costs directly attributable to the item in question. A reasonable proportion of other costs indirectly attributable to the item in question *shall* be included to the extent that they relate to the period of production. Distribution costs shall not be included;

Or. en

Amendment 9

Proposal for a directive Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. The annual financial statements shall constitute a composite whole and shall for all undertakings comprise, as a minimum, the balance sheet, the profit and loss account *and* the notes to the financial statements.

Amendment

1. The annual financial statements shall constitute a composite whole and shall for all undertakings comprise, as a minimum, the balance sheet, the profit and loss account, the notes to the financial statements *and a cash-flow statement*.

Or. en

Amendment 10

Proposal for a directive Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a

eXtensible Business Reporting Language

1. With effect from 1 January 2018 all financial statements shall be prepared in eXtensible Business Reporting Language (XBRL).

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 42 in order to specify the XBRL format and the manner in which this provision is to be implemented in the Member States. Prior to the adoption of the delegated act, the European Securities and Markets Authority ("ESMA") shall issue to the Commission an opinion on the specification of the format.

3. Before the adoption of the delegated acts referred to in paragraph 2, the Commission, together with ESMA, shall carry out an adequate assessment of possible XBRL formats and conduct appropriate tests in all Member States.

Or. en

Amendment 11

Proposal for a directive

Article 5 – paragraph 1 – point h

Text proposed by the Commission

(h) items in the profit and loss account and balance sheet shall be presented having regard to the substance of the reported transaction or arrangement;

Amendment

(h) items in the profit and loss account and balance sheet shall be **classified and** presented having regard **not only to the legal form but also** to the **economic** substance of the reported transaction or arrangement;

Or. en

Amendment 12

Proposal for a directive Article 5 – paragraph 1 – point j

Text proposed by the Commission

(j) **recognition, measurement,** presentation, and disclosure in annual financial statements shall have regard to the materiality of the relevant items.

Amendment

(j) presentation and disclosure in annual financial statements shall have regard to the materiality of the relevant items.

Or. en

Amendment 13

Proposal for a directive Article 11 – paragraph 8

Text proposed by the Commission

8. Member States may permit the purchase price or production cost of stocks of goods of the same category and all fungible items including investments to be calculated either on the basis of weighted average prices or on the basis of the ‘first in, first out’ (FIFO) method, or a similar method.

Amendment

8. Member States may permit the purchase price or production cost of stocks of goods of the same category and all fungible items including investments to be calculated either on the basis of weighted average prices or on the basis of the ‘first in, first out’ (FIFO) method, **the ‘last in, first out’ (LIFO) method,** or a similar method.

Or. en

Amendment 14

Proposal for a directive Article 11 – paragraph 11 – subparagraph 3

Text proposed by the Commission

A provision shall represent the best estimate of the expenses likely to be incurred, or in the case of a liability, the amount required to settle it at the balance sheet date.

Amendment

A provision shall represent the best **objective** estimate of the expenses likely to be incurred, or in the case of a liability, the amount required to settle it at the balance sheet date.

Amendment 15

Proposal for a directive Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Cash-flow statement

- 1. Financial statements shall include the statement of cash flows.**
- 2. The cash-flow statement shall provide information about the changes in cash and cash equivalents of an entity for a reporting period, showing separately changes from operating activities, investment activities and financial activities. The statement shall not be older than six months.**
- 3. Paragraph 1 shall not apply to small undertakings and groups as respectively defined in Article 3(1) and Article 3(4).**

Or. en

Amendment 16

Proposal for a directive Article 20 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) any important events that have occurred since the end of the financial year;

deleted

Or. en

Justification

Duplicate provision with Art 17 Para 1 (f).

Amendment 17

**Proposal for a directive
Article 25 – paragraph 7**

Text proposed by the Commission

7. Consolidated financial statements shall show the assets, liabilities, financial positions, profits or losses of the undertakings included in a consolidation as if there were a single undertaking.

Amendment

7. Consolidated financial statements shall show the assets, liabilities, financial positions, ***cash flows***, profits or losses of the undertakings included in a consolidation as if there were a single undertaking.

Or. en

Amendment 18

**Proposal for a directive
Article 27 – paragraph 2**

Text proposed by the Commission

2. When this Article is applied for the first time, the associated undertaking shall be shown in the consolidated balance sheet at an amount corresponding to the proportion of the associated undertaking's capital and reserves represented by the participating interest. The difference between that amount and the book value calculated in accordance Chapters 2 and 3 shall be disclosed separately in the consolidated balance sheet or in the notes to the consolidated financial statements. That difference shall be calculated as at the date as at which that method is used for the first time.

Amendment

2. When this Article is applied for the first time, the associated undertaking shall be shown in the consolidated balance sheet ***either:***

(a) at its book value calculated in accordance with Chapters 2 and 3. The difference between that value and the

amount corresponding to the proportion of capital and reserves represented by the participating interest shall be disclosed separately in the consolidated balance sheet or in the notes to the consolidated financial statements. That difference shall be calculated as at the date as at which that method is used for the first time; or

(b) at an amount corresponding to the proportion of the associated undertaking's capital and reserves represented by the participating interest. The difference between that amount and the book value calculated in accordance with Chapters 2 and 3 shall be disclosed separately in the consolidated balance sheet or in the notes to the consolidated financial statements. That difference shall be calculated as at the date as at which that method is used for the first time.

A Member State may prescribe the application of one or other of (a) and (b) above. The consolidated balance sheet or the notes to the accounts must indicate whether (a) or (b) has been used.

In addition, Member States may permit or require the calculation of the difference as at the date of acquisition of the shares or, where the shares were acquired in two or more stages, as at the date on which the undertaking became an associated undertaking.

In addition, *for the purposes of (a) and (b) above*, Member States may permit or require the calculation of the difference as at the date of acquisition of the shares or, where the shares were acquired in two or more stages, as at the date on which the undertaking became an associated undertaking.

Or. en

Amendment 19

Proposal for a directive Article 37 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The obligation referred to in paragraph 1 shall not apply in respect of

any undertaking or entity that has a net turnover of less than EUR 500 million in the preceding financial year.

Or. en

Amendment 20

Proposal for a directive Article 38 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The report shall exclude any payments that do not exceed EUR 100 000 or payments that have been attributed to a project with an overall cost of less than EUR 25 million.

Or. en

Amendment 21

Proposal for a directive Article 39 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The obligation referred to in paragraph 1 shall not apply in respect of any undertaking or entity that has a net turnover of less than EUR 500 million in the preceding financial year.

Or. en

Amendment 22

Proposal for a directive Article 41

Text proposed by the Commission

The Commission shall review and report on the implementation and effectiveness of this Chapter, in particular as regards the scope of the reporting obligations and the modalities of the reporting on a project basis. The review should also take into account international developments and consider the effects on competitiveness and security of energy supply. It should be completed at the latest **five** years after the date of entry into force of this Directive. The report shall be submitted to the European Parliament and the Council, together with a legislative proposal, if appropriate.

Amendment

The Commission shall review and report on the implementation and effectiveness of this Chapter, in particular as regards the scope of the reporting obligations and the modalities of the reporting on a project basis. The review should also take into account international developments and consider the effects on competitiveness and security of energy supply. It should be completed at the latest **three** years after the date of entry into force of this Directive. The report shall be submitted to the European Parliament and the Council, together with a legislative proposal, if appropriate.

Or. en

Amendment 23

Proposal for a directive CHAPTER 9 a (new) – Article 41 a (new)

Text proposed by the Commission

Amendment

CHAPTER 9a

COUNTRY-BY-COUNTRY REPORTING

Article 41a

Country-by-country reporting

1. All types of undertakings listed in Annex 1 shall be required to draw up and publish additional country-by-country statements regarding their activities in other countries when any of the following conditions are fulfilled:

(a) the undertaking in question operates in a country where no legal entity has

been set up;

(b) the undertaking in question operates in a country in the form of a joint-venture undertaking.

2. For each activity referred to in paragraph 1, the country-by-country statements shall include:

(a) net turnover;

(b) cost of sales (including value adjustments);

(c) gross profit or loss;

(d) distribution costs (including value adjustments);

(e) administrative expenses (including value adjustments);

(f) other operating income;

(g) value adjustments in respect of financial assets and of investments held as current assets;

(h) profit or loss before taxation;

(i) profit or loss for the financial year;

3. The country-by-country statements shall be drawn up and published in respect of each country in which the activities referred to in paragraph 1 are carried on.

4. The country-by-country statements shall be drawn up and published on an annual basis.

5. The obligations laid down in this Article shall not apply to any undertaking that has a net turnover of less than EUR 500 million in the preceding financial year.

Or. en

Amendment 24

**Proposal for a directive
Article 48 a (new)**

Text proposed by the Commission

Amendment

Article 48a

**Amendments to Regulation (EC)
No 1606/2002**

Regulation (EC) No 1606/2002 is hereby amended as follows:

1. Article 3(1) shall be replaced by the following:

"1. The Commission shall, by means of delegated acts adopted in accordance with Article 5a, decide on the applicability within the Union of international accounting standards."

2. Article 6 shall be replaced by the following:

"Article 6

Exercise of delegated powers

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The delegation of power referred to in Article 3(1) shall be conferred on the Commission for a period of five years from ...⁺.

3. The delegation of power referred to in Article 3(1) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the

Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 3(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council."

3. Article 7 shall be replaced by the following:

"1. The Commission shall be assisted by an accounting regulatory committee hereinafter referred to as 'the Committee'.

2. The Commission shall liaise on a regular basis with the Committee and with the competent committee of the European Parliament about the status of active IASB projects and any related documents issued by the IASB in order to coordinate positions and to facilitate discussions concerning the adoption of standards that might result from these projects and documents.

3. The Commission shall duly report to the Committee in a timely manner if it intends not to propose the adoption of a standard."

⁺ OJ: Please insert the date of entry into force of this directive.

Or. en

Justification

The references to Article 6(2) in Articles 4 and 5 of Regulation 1606/2002 will be amended accordingly.