

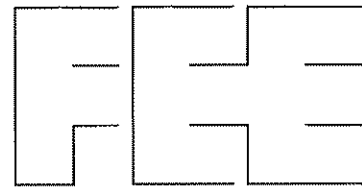
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Mr. Jörgen Holmquist  
Director General  
Internal Market and Services DG  
European Commission  
Rue de la Loi 200  
1049 BRUSSELS



Dear Mr. Holmquist,

Re: DG paper: Results of the External Study on the Feasibility of an Alternative to the Capital Maintenance Regime of the Second Company Law Directive and Impact of the Adoption of IFRS on Profit Distribution

1. FEE (Fédération des Experts Comptables Européens – Federation of European Accountants) notes the publication of the DG Paper “Results of the External Study on the Feasibility of an Alternative to the Capital Maintenance Regime of the Second Company Law Directive and Impact of the Adoption of IFRS on Profit Distribution”.

The DG Paper expresses the view in evaluating the KPMG Study (“Feasibility Study on an Alternative to the Capital Maintenance Regime Established by the Second Company Law Directive 77/91/EEC of 13 December 1976 and an Examination of the Impact on Profit Distribution of the New EU-Accounting Regime”) that the current capital maintenance regime under the Second Company Law Directive does not seem to cause significant operational problems for companies and that therefore the DG has decided that no follow-up measures or changes to the Second Company Law Directive are foreseen in the immediate future.

2. In September 2007, FEE has issued a Discussion paper on Alternatives to Capital Maintenance Regimes in which FEE proposed the introduction of an alternative capital maintenance regime in the form of a solvency-based regime, which would involve both a “snapshot” test and a “forward looking” test. FEE envisages that this solvency-based regime would be introduced on a phased basis. This new regime would be optional at Member State level.

The Discussion paper details the elements that need to be addressed in the development of any new solvency-based regime. FEE envisaged in this paper that the EC could introduce a regime giving the Member States the possibility to require or allow companies to follow an alternative system as well as the existing system. In terms of application of an alternative regime, it will be necessary to decide what range of companies should be allowed or required to use an alternative regime, and whether this issue should be determined at EU or national level. The Discussion Paper can be found at our website:

([http://www.fee.be/publications/default.asp?library\\_ref=4&category\\_ref=44&private=False](http://www.fee.be/publications/default.asp?library_ref=4&category_ref=44&private=False))

3. Despite the decision taken by the DG that no follow-up actions or changes to the Second Companies Law Directive are foreseen, we wish to encourage the EC and other organisations to continue the work on issues related to the contents of a possible capital maintenance system as this issue is of great importance for some Member States. The FEE Discussion Paper can – amongst others – provide a basis for such a discussion.
4. Further research could be stimulated to investigate whether there is a need for an alternative capital maintenance regime:
  - Why do Member States not allow IFRS for the individual accounts in certain countries? Does dividend distribution play a role?
  - In some countries, relatively few companies that could do so have used IFRS in their individual accounts: is dividend distribution a reason for not using IFRS in the individual accounts?
  - Table III of the DG paper indicates that in 8 out of 19 countries, modifications to the IFRS accounts are needed before they can be used for distribution. The impacts of IFRS on dividend distribution need to be understood and mitigated. Is there a need for a level playing field?
  - Where IFRS accounts cannot be directly used for dividend distributions, but modifications need to be made, effectively two sets of accounts need to be kept which poses a burden to companies, especially in a period where simplification and reduction of administrative burdens are high priorities on the EC agenda.

We are pleased to discuss any aspect of this letter or our Discussion Paper you may wish to raise with us.

Yours sincerely,



Jacques Potdevin  
President