FEE Conference on Audit Regulation

Auditorium of the National Bank of Belgium, Brussels

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MINUTES OF PANEL DISCUSSION ON HOME COUNTRY OVERSIGHT, MUTUAL RELIANCE AND JOINT INSPECTIONS:

ACHIEVEMENTS, CHALLENGES AND PRACTICALITIES

Philip Johnson, FEE Vice-President and Chairman of the FEE Auditing Working Party, opened the Panel session by introducing the speakers and announcing that home country oversight, mutual reliance and joint inspections would be considered from different national and regional perspectives. The impact of the different regimes on other and third countries should be discussed in order to create an understanding of what is happening in the different jurisdictions in practice.

Toshitake Inoue, Director for International Financial Markets and for International Accounting of the Financial Services Agency of Japan (JFSA) presented the implementation of notification requirements for foreign audit firms under the Japanese CPA Act, which came into effect on 1 April 2008, as well as his future vision on the issues under discussion. He emphasized that all foreign audit firms have to provide the notification document and the attachment to the JFSA by their respective deadlines without undue impediments. Audit reports are invalidated if notification is not provided prior to the release of audit reports by the audit firm. Approximately 80 foreign firms from 30 jurisdictions are expected to file notifications. A foreign audit firm needs to submit a notification document immediately after the appointment as auditor. The attachments can be submitted within 6 months from the initial notification.

The JFSA met with representatives from foreign audit oversight authorities and the major audit firms to consider implementation issues, which will be clarified in form of the issuance by the JFSA of Frequently Asked Questions.

In the future he would expect Japan to move towards a mutual reliance system with the possibility of waiving the registration and notification requirements. In order to achieve mutual reliance there should be mechanisms in place to ensure satisfactory audit quality in both jurisdictions as well as an effective information-sharing scheme between the oversight bodies concerned. Mutual reliance should be based on the principle of reciprocity. He presented some suggestions for moving towards mutual reliance including the creation of an international supervisory college by major audit regulators and the promotion of information sharing among audit regulators via the International Forum of Independent Audit Regulators (IFIAR).

Paul George, Director of the UK Professional Oversight Board, focused on joint inspections, the acceptance of such inspections in the EU, and the UK approach to regulating oversight of third countries. He reported on the UK experience of six joint Audit Inspection Unit (AIU)/Public Company Accounting Oversight Board (PCAOB) inspections covering audit firms falling under the obligations of the Sarbanes-Oxley Act. These joint inspections could take place because of the willingness of the audit firms, their clients, the PCAOB and the home regulator. The firms supported these inspections in order to reduce regulatory burden and to avoid duplication in the exercise of oversight activity. The joint inspections allowed the PCAOB to assess the effectiveness of the UK audit firms and the UK oversight system. He drew the parallel with controlling an internal auditor. He underlined the need for regulatory cooperation between different EU Member States. The UK firms had to sign a form confirming the reliance on the UK regulator. Challenges include the confidentiality provisions under the Sarbanes-Oxley Act and of the PCAOB; reporting as the AIU publishes its individual inspection reports instead of producing a generic report; and the role of home country regulators.

He encouraged greater cooperation between EU regulators. A complexity is that EU regulators develop at different speeds. He emphasized the need to develop agreed EU-wide Frequently Asked Questions. The need for greater coordination and cooperation within the EU is becoming more urgent with the creation of European structures in firms like KPMG in order to avoid unnecessary duplication in oversight activities. The European Group of Auditor's Oversight Bodies (EGAOB) has a role to play in this respect. The UK vision on the future is quite similar to the views held in Japan: moving toward mutual reliance as well as the need for information sharing.

Rhonda Schnare, Director of Office International Affairs of the US PCAOB, gave the PCAOB perspective on the issues discussed so far. She reported that the PCAOB has conducted inspections in 26 countries of which joint inspections in six countries. In the 20 other countries the relevant local authorities were contacted before the inspection was performed. The PCAOB has still to carry out inspections in 24 other countries. The challenges facing the PCAOB include both potential conflicts of law and practical difficulties such as the use of foreign languages.

The PCAOB issued a proposed policy statement on full reliance in December 2007 that sets forth the essential criteria that the PCAOB would consider in determining whether a non-US regulator qualifies for "full reliance" by the PCAOB on its inspection work. The PCAOB organised a public roundtable on the proposed policy statement in June 2008 and is still considering the information gathered during that roundtable as well as the written comments received during the comment period.

On 4 December 2008 the PCAOB adopted a rule extending the 2008 deadline to 2009 for first PCAOB inspection of 21 foreign audit firms. In addition the PCAOB proposed a rule that would extend the 2009 deadline for first inspection of 50 foreign audit firms in 24 jurisdictions where they have not previously conducted inspections. These inspections are proposed being conducted over a period of three years from 2009 to 2012. The proposals also include the publication of the names of the firms that have not yet been inspected by the PCAOB within the timeframe the investors could reasonably have expected. The deadline for commenting on these proposals is 2 February 2009.

Pierre Delsaux, Director in DG Internal Market and Services of the European Commission (EC), started his presentation with a reference to the financial crisis. Auditors have so far not been the main focus of the crisis. However, auditing is important for the well functioning of the financial markets. In relation to the subject of the panel discussion he addressed the objective of the EC, what has been done so far and what should be done in the near future. The objective is full reliance and this requires cooperation also at international level in order to provide sufficient protection for investors as reiterated in the G20 Declaration. He drew the parallel with the accounting area where the EC recently has adopted measures on the equivalence of certain national GAAPs including US GAAP with IFRS. Equivalent does not mean the same and this is illustrative of the line followed by the EC.

The Statutory Audit Directive has now entered into force but not all Member States have yet implemented the Directive. The EC believes that cooperation gives the best result and the EC has therefore only imposed a light system of registration of foreign firms in order not to block access to the EU market. He acknowledged the system of joint inspections but emphasized that the aim is full reliance. Joint inspections created problems in the EU in relation to confidentiality and the transfer of documents and working papers. Europe wishes to cooperate but on the basis of reciprocity. A draft decision by the EC is planned to be adopted before summer 2009. He underlined that mutual full reliance is the only way forward.

During the **panel discussion and in responding to questions** of the audience, several issues were addressed including coordination of oversight bodies in Europe and the lack of adequate resources in some Member States; the need for regulatory convergence based on home country control and equivalence; the emphasis that cooperation is a global issue that needs a global solution and the need for a level playing field (national impediments need to be removed and the fact that all parties are willing to allow time is seen as a positive step); a scattered international oversight coordination system does not serve the accountancy profession well (in particular not in times of financial and economic crises); the move from generic to specific reporting in the UK (as a result of calls within the profession for greater transparency); and the risk of creating additional burdens for smaller firms (in oversight there is no one size fits all approach).

Chairman Philip Johnson concluded the panel discussion and thanked the panellists and audience for their participation.