European Association of Co-operative Banks
Groupement Européen des Banques Coopératives
Europäische Vereinigung der Genossenschaftsbanken

2012 International Year of Cooperatives

MEP
European Parliament
Bât. Altiero Spinelli
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E-MAIL

EACB Comments on the JURI Draft Report of Mr. Lehne and on the JURI Amendments 101-267 on the Commission's Proposal on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings COM(2011) 684

Dear Madam, dear Sir,

The Members of the European Association of Co-operative Banks (EACB) have taken note of the draft Report of Mr. Lehne for the JURI Committee and of the JURI Amendments 101-267 suggested by the Members of the European Parliament on the Commission Proposal on the annual financial statements, consolidated financial statements and related reports of certain undertakings (revising and replacing the 4th and 7th accounting directives). While we support some of the objectives of these documents, we would like to draw your attention to the following issues:

- The deletion of Articles 6 and 7 (AM 39, 40, 128, 129) does not go in the right direction. These articles allow Member States to use alternative measurement methods for assets and financial instruments. In many countries, national standards already allow, if not even oblige, the use of these alternative methods. Their deletion would have a far-reaching impact on national accounting and reporting methods of credit institutions which are currently using these approaches. Alternative valuation approaches improve the information content of financial reporting compared to the historical cost basis. The preparation of financial statements at historical cost without alternative approaches is not sufficient.

- We are opposed to the deletion of some of the major accounting principles in the JURI Draft Report and in the JURI Amendments:
    - The principle of the true and fair view in the preparation of financial statements (AM 38 of Article 5(3)). It is a globally recognized general principle of accounting that should be considered as highest priority in the preparation of the financial statements. The preparer of the financial statements should prove that he has a "true and fair view" of the assets, the liabilities, the financial position and the results of the institutions at the year-end closing. Without this principle, financial statements would possibly be legally correct, but they will not give a clear view of the situation of the institution.
    - The principle of substance over form (AM 36 and AM 126 of Article 5(1)(h)). The principle requires the company to provide reliable financial information truly reflecting the economic reality of the transactions, not only their legal form. This deletion opens the door for legally correct but economically incorrect financial information.

- The limitation of the use of the materiality principle to presentation and disclosure (AM 37 and AM 127 of Article 5(1)(j)). The deletion of the use of the materiality principle to recognition and measurement would lead to the recognition of some immaterial transactions in the financial statements which is not justified on the basis of the uselessness of the result. In many Member States, this principle applies to the entire accounting process of financial statements including the interrelated concepts of recognition and measurement.

- Furthermore, the Members of the EACB do not see the necessity of the mandatory preparation of financial statements under an electronic tool (AM 102 of Recital 27 and AM 125 of Article 4a). The Commission Proposal should focus on provisions about recognition, measurement, structure and presentation. It should not specify any technical standards that might become out-of date in the coming years. In addition, it would be particularly difficult to define an harmonized electronic format for tax purpose because corporate tax is not designed in a uniform way in the EU.

- The members of the EACB have strong reservations regarding mandatory cash flow statements for banks (ECON Amendments of Recital 12a and Article 15a) The core business of a bank is financing customers and investing in financial assets which require a far more elaborated approach to solvency and liquidity. Cash flow statements do not provide any relevant information regarding a bank's liquidity or solvency, neither for the bank, nor for investors or customers. It is not even useful as a management tool. In addition, public insight in the overall risk profile of a bank is supplied by specific disclosure requirements according to the Capital Requirement Regulation in Articles 418 to 440.

- We are opposed to the limitations of the forward-looking measurement of provisions relating to balance sheet items (AM 51 of Article 11(11) subparagraph 3). The Members of the EACB reckon that the provisions measurement depends on the future prices and the costs when the obligation is settled. In addition, Member States already measure provision with a fair business judgment considering in advance the best estimation of the expenses likely to be incurred.

- Finally, we support the Member State's option to apply consolidation rules (AM 156 of Article 23(1a)) and the exemption of compulsory preparation of consolidated financial statements for undertakings which has the power to exercise dominant influence over other undertakings (AM 152 of Article 23(1)(d)). Without these simplifications, smaller banks may have to prepare financial statements for special funds which would imply administrative burden and associated costs such as the audit services and the disclosure requirements. In some Member States, some exemption of consolidation requirements already exists and do not lead to information disadvantage for users of financial statements because these institutions are required to provide disclosure information. In addition, the Seventh Company Law Directive already allows Member State Option to apply consolidation rules in Article 1 (2).

Should you have any questions, we would be happy to clarify the issues more precisely.

Yours sincerely,

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