THE EU'S SIMPLIFICATION AGENDA

This statement is issued jointly by the Association of Chartered Certified Accountants (ACCA) and the Consiglio Nazionale dei Dottori Comercialisti e degli Esperti Contabili (CNDCEC) with regard to the on-going deliberations within the European Union on the above matter. Both ACCA and CNDCEC have already made detailed submissions to the European Commission on the proposals it put forward in 2007 on accounting and reporting issues. We have also both contributed to, and supported, the representations on this matter made by FEE (The Federation des Experts-Comptables Européens – the representative body for Europe's accountants).

We are minded to issue this statement now in the light of current and recent developments, including the publication of the resolution of the European Parliament and the conclusions of the Council of Ministers, and because the time for the presentation of the Commission's final proposals on this matter is drawing near.

We think there are many points in both the documents referred to that the profession can support. As FEE itself has previously said, the profession should be constructive in this exercise and receptive to the exploration of beneficial reforms. We should not defend purposeless regulation but should be open to the critical re-evaluation of any existing burdens which cannot be justified by reference to criteria of essential regulation, third party information needs and business benefit.

At this stage, however, we would like to make a number of technical points that we think still deserve to be made as this process draws towards its conclusion.

Firstly, we welcome the acknowledgment contained in the Council statement dated 29 and 30 May that thorough impact assessments must be undertaken to avoid the prospect that, 'in reducing administrative burdens, additional administrative costs might result'. This is in our view useful advice to give in the context of the proposed changes to the accounting and reporting rules. We also think that the Parliament's resolution is positive to the extent that it says that reform should not jeopardise justifiable information needs or access to finance opportunities. These are considerations which were noticeably absent in the Commission's early proposals on this matter. But we also think that, in the course of carrying out the necessary impact assessments, we should try to ensure that

proper consideration is given to the specific risks presented by the prevailing economic climate.

The fall-out from the sub-prime collapse in the US has had significant consequences for banks across the world, and by extension for all those individuals and businesses who look to the banking sector to raise finance. The response of the banking sector has led in some countries to sharp falls in levels of business investment. On a wider level, inflation is increasing at a significant rate, both inside and outside the eurozone, and prospects for higher interest rates have increased correspondingly. Insolvency rates have risen in several EU countries and forecasts have predicted this trend will continue at least over the next year. The US economy continues to threaten to slide into recession and there are credible forecasts of property prices collapsing by up to 35% over the next two years.

In these circumstances, we are concerned to try to ensure that measures to reduce the short-term cost of compliance should not further expose businesses to the commercial risks that are present in the prevailing climate. We note that the Commission's Small Business Act points to the difficulties faced by small firms, and in particular micro-enterprises, in accessing finance, and to the apparent fact that 1 in 4 insolvencies in the EU are due to late payment, costing the EU 450,000 jobs each year. Such problems are only likely to be exacerbated, in our view, if smaller firms are to be allowed or encouraged to operate without credible accounting controls. It will also be recalled that research carried out for the EU in 2005 concluded, at least tentatively, that those countries that had adopted the SME derogations in the Fourth Directive to the full tended to experience the highest rates of insolvency. We do not suggest that the lesson of this conclusion is that those derogations are necessarily dangerous: we support the principle of proportionate regulation. But we feel that any evidence which suggests that deregulatory practices in a particular area might have negative consequences for business in times of economic growth should be considered very carefully when exploring further extensions of such practices in times of economic difficulty.

Secondly, we continue to hold the view that a radical reduction of companies' accounting and reporting responsibilities on the lines proposed by the Commission in 2007 could be at odds with the EU's commitment to follow internationally agreed benchmarks for combating financial crime. In recent years, the EU has responded urgently to the recommendations issued by the

Financial Action Task Force and put in place a very comprehensive legal framework to protect the financial sector in Europe against money laundering and terrorist financing. A key element of this framework is that all external accountants, auditors and tax advisers have been subjected to statutory requirements to be alert to threats presented by money laundering and terrorist financing and to report any knowledge or suspicions they might have that any client of theirs is engaging in money laundering or terrorist financing. While many still have doubts as to the efficiency with which some of these controls are being operated, it is certainly the case that accountants have come to be seen as a significant contributor of intelligence in this context.

Separately, the UN's Convention on Corruption, which we understand has now been ratified by all of the EU's member states, expressly obliges signatory states to enhance standards of accounting and auditing in the private sector as an integral part of the official response to the problem of corruption. Among the specific measures that states are expected to take in this regard are

- to ensure that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that their financial statements are subject to appropriate auditing and certification procedures.

- to take such measures as may be necessary, within their legal framework on accounting and reporting, to prohibit, *inter alia*, the recording of non-existent expenditure, the incorrect identification of liabilities and the use of false documents.

The specific references to accounting and auditing matters in high-level international agreements on tackling financial crime are a clear sign of the importance attached to the prescription of effective rules and standards on accounting controls and reporting and to the involvement of qualified and regulated accountants in the conduct of business affairs. Any reforms that the EU proposes in this area must therefore take into account the danger of issuing conflicting signals. In particular, we think that any suggestion on the part of the EU that very small companies – which constitute the great majority of the EU's businesses – should be entitled to operate without any accounting controls or reporting responsibilities could create a significant loophole in the EU's framework of protection against money laundering and terrorist financing and

would make it more difficult for member states to meet their obligations under the UN Convention.

Thirdly, we would point to the fact that an integral element of the Commission's new Small Business Act is the commitment to bring forward legislation to create the European Private Company (SPE). The idea is that this new entity will act as a major spur to the conduct of cross-border commercial activity by private businesses across the EU. It is also intended that the SPE will be a truly pan-EU entity in that its legal character will be determined, as far as is practicable, by the EU legal instrument which creates it. But since this new legal instrument decrees that the accounting and reporting responsibilities that the new entity should be subject to are to be those set out in the laws of the member state in which an individual SPE is formed, then, in the event that the Fourth Directive rules were no longer to apply at all to very small companies, the result could be a variety of different accounting regimes for micro companies across the EU and prospective SPEs would be able to choose to incorporate in whichever jurisdiction offered the most undemanding accounting (and tax) regime. We do not think that this outcome would be consistent with what the EU is trying to achieve with the SPE.

Our two bodies will continue to take a close interest in the development of this project in the interests of the accountancy profession and the business community.

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