

TO ALL FEBIS MEMBERS

Please reply to
Prière de répondre à
Bitte Antwort an

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Proposal for a Directive of the European Parliament and the Council to change the Directive 78/660/EEG of the Council on the Accounts Simplification for Companies of certain Legal Forms with regard to Micro Entities

Dear FEBIS Member,

Already the last two years I pointed to this legal development which is very negative for the credit reporting business. In this respect I also refer to the Secretarial Report held during the 2010 annual conference in Cascais/Portugal.

On March 10, 2010, the European Parliament now decided to release smallest companies (so-called micro entities) from the obligation to set up annual accounts. If the European Council should agree, it might result in a change of the accounts guidelines in Europe. The member states would then get the right to decide to release micro entities (finance companies below the size criteria: Balance sheet total > 500,000 Euro, net turnover > 1 million Euro and/or number of employees on average employed during the business year > 10) from the implementation regulations of the EU accounts directive.

Thus, the further process now depends on the agreement of the Council. Fortunately there is still a stable blocking minority consisting of the member states Belgium, Austria, Italy, Luxembourg, Portugal, France, Spain and Malta. These countries represent at present 126 votes of altogether 345 represented in total in the Council. Since the draft directive requires a qualified majority of 255 votes, the proponents of the change directive, especially Germany and the UK, cannot carry their point. Nevertheless in particular the two latter countries urge the new Council presidency (Belgium) to put the topic on the Council's agenda in order to cause a negotiated solution. A decision whether the new Council presidency will get into this is still outstanding.

Should the Council in the end agree to the draft directive of the European Parliament in its present form and should it thus come into force, this would be fatal for us as reporting agencies. An analysis of the number of employees in capital companies in 15 European countries shows that more than 82% of the companies employ not more than 10 persons. We can therefore assume that round about 75% of the capital companies in Europe fulfil all criteria of the European Commission. Thus, as micro entities, they could be released from the publication obligation. The omission of the accounts information on these companies is equivalent to a serious backward step behind the conditions of transparency Europe reached until today.

The reduction of the number of companies obliged to publish questions the sense of the European accounts directive in total. For instance the goal of creating minimum requirements for the capital companies competing with each other in the EU domestic market and information rights of third parties – banks, business partners or employees – can no longer be tracked. A substitute would have to be created for these groups of interest in order to enable them to gain the information they are entitled to obtain.

If this would be missing, micro entities might have problems for instance in the capital procurement, as the transparency significance for investors and creditors substantially rose – also against the background of the financial crisis.

Especially the anyway risk-susceptible micro entities face the threat of a substantial competitive disadvantage caused by the loss of transparency due to the omission of the obligation to publish accounts. Already today many medium size companies have financing problems due to their small capital cover which are bridged by availment of trade credits. These credits, however, are simply based on the obligingness and confidence of the respective contract partner who was so far able to easily get information on the financial situation of his business partner on the basis of annual accounts. This influential and reliable information source for the participants in the economy is on the verge of running dry due to the reform decided by the European Parliament. It will also be no longer available for our services and products as source of basic information, thus no longer allowing us to perform our services to the present extent.

For these reasons in my opinion the decision of the European Parliament is extremely critical and negative. Our goal must be to try on all levels with all available means to influence the decision of the still pending national representatives in the European Council in our sense in order to argue them out of accepting the European Parliament's proposal. Therefore I can only again call on you to mobilize all forces and to become active by appropriate lobby activities. If the European Union directive will be into force, experience shows that it is more difficult to induce the individual federal state governments to implement the EU guidelines in a moderate and in our view acceptable manor.

So far the Secretarial Report of 2010. The actual status is unchanged as the European Council did not agree to the Parliament's attempt. Since Hungary took over the Council Presidency in January, 2011, a new proposal is discussed: Companies with turnover less than EUR 500,000.-, a balance sheet amount of less than EUR 250,000.- and less than 10 employees shall be relieved from publishing financial figures. Although this would water the whole matter down, still half of the companies so far having to publish figures would be released from publication necessity.

For the time being, the attempt of the Hungarian Council Presidency to find a middle ground line did not succeed. Especially Germany and France being the most important exponents of the two opposed positions did not find a consensus. On April 28, 2011, there was another workgroup session where the Hungarian Council Presidency made another attempt to effect a compromise. As soon as further details are available you will be informed.

Yours faithfully



Prof Dr Helmut Rödl
Secretary General of FEBIS