Harmonising financial reporting in the EU: an analysis of Regulation 1606/2002 on International Accounting Standards

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Introduction

> *"Financial statements underpin the entire system of market information. They are the vital link between issuers and investors and are essential to deliver the high level of comparability the EU needs for a single securities market"*[1]

In 1999, the European Commission proposed the Financial Services Action Plan to create a truly integrated market for financial services in Europe. This plan, adopted by the European Council of 23 and 24 March 2000 in Lisbon, stretches over five years and is due for completion in 2005. The key objectives are the integration of financial markets through legislative measures by the European Union (**"EU"**) in different areas of the financial services industry. One important such area is the field of accounting where harmonisation is considered to be a key issue. In July 2002, seven years after it was announced that the EU would adopt a single set of accounting standards[2], a Regulation was adopted, introducing the mandatory use from 1st January 2005 of International Accounting Standards (**"IAS"**) in the EU[3].

The IAS Regulation is a logical step forward in the harmonisation of accounting rules. European Harmonisation in the accounting field goes a long way back, and the IAS

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[1] Communication from the Commission : EU Financial Reporting Strategy, the way forward, Brussels, 13.6.2000, page 4, (**"The 2000 Communication"**)

[2] Communication from the Commission, Accounting harmonisation: a new strategy vis-à-vis international harmonization, Com 95(508), Brussels November 1995 (**"The 1995 Communication"**)

[3] Regulation 1606/2002 of 19 July 2002 on the application of International Accounting Standards, (OJ L 243/1), the **"IAS Regulation"**

regulation will replace some earlier instruments, at least as far as companies that are within its scope of application are concerned (**"the targeted companies"**).

These instruments are the 4th[4] and 7th[5] directives on the annual and consolidated accounts of companies, some of the provisions of which will not apply anymore to the targeted companies. The Directive on consolidated accounts of insurance undertakings[6] and the directive on annual and consolidated accounts of banks and other financial institutions[7] will also be overridden, for said companies, by the IAS Regulation. Although the provisions of these four directives have been transposed into national law in the different Member States, the IAS Regulation will apply directly to the targeted companies. This is not, of course, a specific feature of the present Regulation, but rather a general feature of the "Regulation" instrument.

Nevertheless, conflicts may arise between the IAS Regulation and national accounting laws of the Member States. In this case, according to the commission, two situations have to be distinguished[8]: In the case of matters outside the IAS Regulation[9], the accounting directives will continue to apply. In matters where both instruments overlap, companies will have to apply the IAS Regulation irrespective of any conflicting national law or rule. In addition, the Commission has decided to make an effort in order to obtain convergence between the standards contained in the accounting directives and IASs[10]. This would allow companies, the Member States of which have not decided to allow the reporting of their annual accounts in IAS, to be able to prepare their annual accounts in a set of standards close to IAS which would thus reduce their costs. Indeed, it may be extremely expensive for companies to prepare two sets of accounts, each being in accordance with a different set of standards.

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[4] Fourth Council Directive 78/660/EEC of 25 July 1978 (OJ L 222) (**" the 4th Directive"**)

[5] Seventh Council Directive 83/349/EEC of 13 June 1983 (OJ L 193) (**"the 7th Directive"**)

[6] Council Directive 91/674/EEC 19 December 1991 (OJ L 374)

[7] Council Directive 86/635/EEC of 8 December 1986 (OJ L372)

[8] Comments concerning certain Articles of the Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of International Accounting Standards, European Commission, November 2003, p.10. "**The Commission Comments on the IAS Regulation"**.

[9] e.g. reporting obligations contained in the accounting directives but not in the IAS Regulation

[10] see 2000 Communication, pp. 9-10

The IAS regulation is a very important step in the achievement of a single integrated market for financial services. With this regulation, all the targeted companies will have to report under the same set of accounting standards from 1st January 2005. To this effect, the EU has chosen the International Accounting Standards **("IAS")** elaborated by the International Accounting Standards Board, the **"IASB"**[11]. In order to achieve this target efficiently, it was decided to operate by the way of a regulation. This is a new practice, as until the IAS Regulation, any legislation in the accounting field was made through directives. The subject matter was too important for leaving too broad a manoeuvring margin to the Member States, and it was decided that a directive was not an appropriate instrument.[12] There were also other reasons, such as timetable constraints: the Commission wanted the standards to be implemented by 2005. A directive would have made this goal impossible to achieve because of the 18-month period the Member States are generally granted to transpose directives into national law. Furthermore, a directive, in order to correctly implement IASs, would have needed to be extremely detailed, in which case Member States just would have had to carbon-copy the provisions of the directive into their national legislation. The use of a Regulation therefore seemed to be more appropriate, in order to forego any risk of uncertainty and divergence in the implementation of IASs.

The decision to adopt a single set of accounting standards for the EU was taken with a view to achieve transparency in the internal market. The implementation of IASs will surely enhance transparency in cross-border business operations and also across sectors, even if there is a risk that new complexities and cases of volatility in reported numbers will be added.[13]. However, IASs may favour merger transactions as there will be a clearer picture of the accounts[14]: in the previous systems, companies

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[11] International Accounting Standards Board, http://www.iasb.org. The IASB has succeeded, in 2001, to the IASC, the International Accounting Standards Committee. cf. appendix for the structure of the IASB.

[12] Van Hulle, *From Accounting Directives to International Accounting Standards*. I have not indicated page numbers for references to this article, as, at the time of writing, it was only available in an unpublished version on www.portaleaziende.it

[13] Source: KPMG, *EU Companies, IFRS and the capital markets*, 2003, p.1. Available at http://www.kpmg.com

[14] *ibid*, p.2

reported their consolidated accounts generally in accordance with national GAAP[15], or even United States GAAP or IASs. This situation will change with the arrival of the IAS Regulation, which will introduce an entirely new element of clarity to the market. This can only be welcomed.

It is important to define "accounting standard". According to the IASB[16]: "Accounting standards are authoritative statements of how particular types of transaction and other events should be reflected in financial statements."

As such standards, IASs are a set of principles that need to be observed when preparing accounts. These principles include instructions on how to evaluate the different elements registered on the accounts. It needs to be pointed out that IASs are principles, not rules, an option chosen by the IASB and, mainly, its predecessor[17], for the sake of flexibility.

Further, IASs are not a chart of accounts as some countries like Belgium or France may have. The elaboration of such a chart is left to the companies reporting in IASs. In other words, the targeted companies will have to organize themselves the structure of their internal information management. IASs are "only relevant to external, general purpose financial requirements"[18]. The IASs do, however, give indications on how this data needs to be presented[19]. The 4th Directive already does so by suggesting formats in accordance to which the annual accounts (balance sheet and profit and loss account) should be presented[20].

When talking about IASs, I am referring to a large conception of what IASs are. This includes the standards themselves (known either as IASs or IFRSs[21]), but also the IAS framework and the interpretations of the standards. For a company to be able to claim

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[15] Generally Accepted Accounting Principles. GAAP are generally country-specific, i.e. they are drawn up by a national regulator

[16] Source: http://www.iasb.org/about/faq.asp?showPageContent=no&xml=18_13_24_17122003.htm

[17] The IASC, which decided to elaborate IASs as a principles-based system.

[18] Commission Comments on the IAS Regulation, p. 13

[19] IAS 1 : Presentation of financial statements

[20] Roberts, Weetman and Gordon, *International Financial Accounting*, p.217. Please note that the Commission estimates that IAS 1 and the formats of the 4th Directive contain similar requirements. As of this, there should not be any compatibility issues between these two. (Commission Comments on the IAS Regulation, p. 13)

[21] International Financial Reporting Standards

that it prepared its accounts in accordance with IASs, these accounts need to be consistent with the standards **and** their interpretations.

The Interpretations (known as SIC's) and elaborated by the IFRIC[22] give indications on how to apply the IASs. The framework itself is not a part of the standards. It does, however assist the IASB in developing new standards and it may also assist preparers of financial statements, auditors and users of financial statements[23]. Finally, the standards themselves are numbered from IAS 1 to 41 and then from IFRS 1 up. Each concerns one specific accounting issue[24].

An important terminology issue needs to be addressed form the start: why are there two different terms being used when referring to International Accounting Standards, IAS and IFRS? There is no real difference between the two. Both IAS and IFRS refer to the same set of standards. The difference lies in the fact that IAS refers to the standards adopted by the predecessor of the IASB, the International Accounting Standards Committee, whereas IFRS refers to the standards adopted by the IASB. According to the board, when referring to IFRS, this would be the same as referring to IAS and IFRS. The general practice, which I will follow, remains to refer to "IASs", rather than use "IFRSs" as most of the standards currently in use are IASs.

Finally, when the decision to adopt a single set of accounting standards for the entire EU was taken and it was decided to adopt the standards elaborated by the IASB, the need was felt to build in safeguards. There was general concern that it could hurt the "European good" if standards were to be automatically integrated into European Law. It was therefore decided to implement an endorsement mechanism for the standards that will be applicable inside the EU.

In the present analysis I purport to examine the IAS Regulation by separately examining three issues that are treated in the Regulation or affected by it. The first is a general analysis of the decision to adopt a single set of standards for the EU. The second point of interest is the endorsement procedure for integrating the standards into EU law, which has proven to be of high importance. The third and last point of interest is the scope of application of the Regulation, i.e. the companies that will have to report in IAS.

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[22] International Financial Reporting Interpretations Committee

[23] Source: Summary of the IASB Framework, available at http://www.iasb.org

[24] E.g. IAS 33: Earnings per share, IAS 35: Discounting operations. A full list of the standards and their names can be found in the appendix

Part One: The adoption of a single set of accounting standards for the EU

In this part I will lay down the purpose of the adoption of a single EU-wide set of accounting standards (A). I will then consider why the EU has opted for IASs[25] (B). Lastly, I will analyse the position of the IASB, which has been highly criticised by the EU and how these criticisms have led to changes (C).

A) Why did the EU choose to implement a single set of accounting standards

The purposes of the adoption of a single set of accounting standards for Europe are mainly indicated by the preamble to the IAS Regulation[26].

The major goal, covering all the subsequent goals is the better functioning of the internal market for financial services. The Regulation aims to achieve a better such market by promoting comparability and transparency of the accounts of important companies (i.e. publicly traded companies). Recital (3) of the preamble to the IAS Regulation also claims that the accounting directives cannot achieve this goal. Indeed, the system presently contained in the accounting directives gives Member States too many options and levels of enforcement vary immensely throughout the EU[27]. Further, the directives are silent on some aspects and they thereby permit different national specifications[28]. The situation has become chaotic, as some Member States allow their companies to report their accounts in accordance with US GAAP or IAS, under the condition that the reports comply with the accounting directives[29]. The result is that it is not rare for companies to report in two sets of standards[30] within the same Member State. This, in turn, leads to investors being deprived of comparable

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[25] IASs were preferred over US GAAP (cf. infra). They are not the result of an existing accounting tradition, but rather a mix-match of different traditions with a strong US influence.

[26] Recitals (2) to (5) of the preamble to the IAS Regulation

[27] Moloney, *EC Securities Regulation*, pp. 234-235

[28] 2000 Commission Communication pp. 4-5

[29] Moloney, pp. 235-236. According to Moloney, this situation arises from the fact that US GAAP are the dominant accounting standards: Companies seeking a listing in the US have to report in these standards for obtaining a listing on a US stock exchange

[30] e.g. US GAAP and national GAAP

accounts and essential information[31]. All this adds up in affecting cross-border trade, the opposite of the result sought by the EU. As the currently existing system does not permit to obtain comparability of the accounts, it needs to be changed. The easiest way of obtaining the sought comparability is to adopt a single set of accounting standards: uniformity is needed. Flower argues that only a single set of accounting standards, where preparers of financial statements have no discretion, can result in uniform reporting, which will then allow the accounts of different companies to be easily compared[32]. This, in turn, would mean a strong reduction in costs as companies would no longer be forced to prepare accounts under different standards if they want to raise capital on different markets. However, Flower also argues the adverse point: as there is a large diversity of users from different accounting traditions, they may not all have the same use of the single set of rules. Thus, the set of standards to be adopted needs to be as internationally accepted as possible.

Recital 4 to the Regulation summarises all the above ideas in stating that a single set of standards is needed in order to obtain investor protection (through comparability of the accounts) and confidence in financial markets. The final result of this would be a better freedom of movement of capital.

B) The choice of the most appropriate set of standards

The most important choice the Commission had to make was the set of standards it wanted to adopt for the entire EU. The number of options to choose from was very limited: the Commission could decide to either expand the current European system of the 4th and 7th Directives, or use another existing system. As I have mentioned earlier, the existing European system is far too divided and incoherent. Further, developing this system is unnecessary as other systems are already in existence and at least equally satisfactory[33]. As of this it was decided to adopt a different system from the one currently in force in the EU. There were only two viable alternatives: US GAAP and IAS, both providing equivalent investor protection[34].

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[31] Walton, Haller and Raffournier. *International Accounting*, p. 16 and Choi, Frost and Meek, *International accounting*, pp. 271-271

[32] Flower, *Global Financial Reporting*, p. 221-223

[33] Van Hulle, *Financial Disclosure and Accounting*, p.157

[34] Moloney, p. 237 and Flower p. 226, although Flower suggests that US GAAP offer a slightly better investor protection.

Whereas US GAAP are an already widely used system elaborated by the FASB[35], the IASs are elaborated by an international organisation, the IASB, but are still in the development stage.
In 1995, the Commission issued a paper[36] in which it set the future accounting strategy for the EU. In this paper, it opted to adopt IAS as a single set of accounting standards. The Commission's decision was mainly based on the fact that US GAAP are elaborated without any European input[37]. The Commission also prefers adopting truly international standards adopted by a truly international body[38].
Furthermore, in its 2000 communication[39], the Commission states that both sets of standards are internationally recognized. However, it also advocates that it would not be good to leave the choice of the best set to the markets, as this would simply sustain unnecessary uncertainties[40].
Another argument in favour of IASs is that the IASB and the FASB have agreed to achieve the convergence of their respective standards. This announcement was made on 19th October 2002 and welcomed the same day by the European Commission[41]. Both standard setters signed a memorandum of understanding in which they formally agree to reach convergence of their respective standards and to maintain it for the future through collaboration[42]. The main consequence of this is that the SEC will probably allow companies reporting in IASs to seek a listing in the US without having to comply with US GAAP. If this is achieved, this will constitute a big advantage for EU companies which will then be able to report only in IAS and not in US GAAP. The SEC has set a January 2005 date for allowing this. This date may, however be pushed back if the SEC estimates that convergence between IAS and US GAAP has not been achieved[43].

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[35] Federal Accounting Standards Board, the United States standard setter

[36] The 1995 Communication.

[37] Moloney, p. 237 and Flower, p. 226

[38] Recital (2) of the Preamble to the IAS Regulation

[39] *op. cit.*, p. 5

[40] *ibid* p.6

[41] Commission press release: Commission *welcomes IASB/FASB convergence statement*, Brussels, 19th October 2002

[42] ibid

[43] *US warns Europe on accounting rules*, Financial Times, 2 January 2004

C) The IASB, a highly criticised body

The IASB has been the target of many criticisms in recent times, especially from summer 2003 when the commission rejected the endorsement of the IAS 32 and 39 standards[44]. The climax of these criticisms was probably reached when French President Jacques Chirac wrote a letter to Commission President Romano Prodi in which the former asked the latter to reform the endorsement mechanisms for IASs[45]. Mr Chirac claimed that the IASB was adopting standards which threatened the stability of the European Community.

The major part of the criticism drawn by the IASB is with respect to the IAS 32 and IAS 39 standards. I will give the details of the dispute in a later part of this analysis. At present, I will however indicate the roots of this dispute which lie in the composition of the IASB[46]. The problem is not the persons who are represented[47], but rather the unrepresented entities: the EU does not have a representative to the IASB. Also, the Commission feels that continental Europe is under-represented on the IASB, there being a majority of representatives from the US and the UK, countries which have very different accounting traditions from continental Europe[48]. However, at the present time, the IASB is not ready to give the EU a seat on its board and probably will not in the future. This is, of course, a highly unfortunate situation as it prevents the EU from clearly stating its positions for the standards to be elaborated, albeit being the IASB's "best client"[49] at the present time.

The dispute was calmed down[50] with the IASB agreeing to the creation of an advisory forum[51] in the beginning of 2004. This group will include representatives from the European Central Bank, regulators, banks and insurers. This forum was created in

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[44] cf. infra, Part Two

[45] cf. Accountancy Magazine, October 2003, pp. 78-79

[46] The Financial Times has been very critical of the IASB, accusing it of producing theological edicts from an ivory tower (31 March 2004, *"Theological" edicts from an ivory tower*)

[47] See Appendix for a list of representatives to the IASB, giving their origin and their background

[48] *IASB to improve consultation procedures*, Financial Times, 24 March 2004

[49] Expression borrowed from Van Hulle, in *Accounting Directives to International Accounting Standards*. See also Walton, Haller and Raffournier, *International Accounting*, p.18: They argue that Europe, although it is "the only geographical area to apply IAS directly, and collectively the second largest economy in the world, has no representation on the IASB and no formal liaison link

[50] But it is not yet solved and probably will not be in the very near future

[51] *IASB creates advisory group at EC's request*, Andrew Parker, Financial Times, 3 February 2004

order to finally solve the dispute between banks and the IASB about the IAS 32 and IAS 39 standards. At the present state, it is too early to say if the creation of the group has had any effects at all.

At the time of writing, some other concessions have been made: At the end of March 2004[52], the IASB finally announced that it would pay more attention to outside criticism, especially originating from Banks and Regulators. As a result, the IASB decided to make its deliberations more transparent and to seek more input from companies as well as from investors[53], by seeking advice before the adoption of a standards. This concession is yet another consequence of the tight time schedule surrounding the adoption of IAS in Europe, as the IAS 32 and 39 standards are not yet ready for being used at European level. Even if it seems that the IASB would prefer avoiding such an embarrassing situation, it is not ready for far-reaching compromises.

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[52] *IASB to improve consultation procedures*, Financial Times, 24 March 2004

[53] *ibid*

Part Two: The endorsement of new accounting standards

I will briefly lay down the mechanism of the endorsement mechanism (A). I shall then give a review of the endorsed standards and some of the controversies related to the endorsement (B).

A) The endorsement mechanism

1) The need for an endorsement procedure

The endorsement procedure is often considered as the most controversial element of the IAS Regulation[54], because of its complexity and slowness. However, it was felt to be needed as it would be unwise for the EU to let the IASB adopt standards which would automatically become part of European Law, without the EU having any substantial input opportunities for the adoption of the standards[55]. The endorsement is also needed to accommodate IASs within the EU "accounting regime without the need for a full-scale amendment of the accounting directives each time IASs are modified"[56]. Nevertheless, as we shall see, the endorsement mechanism is complex and it has brought about enormous problems such as time delays and rejection of certain standards.

2) The mechanism itself[57]

The mechanism consists of two levels[58]:

First, at a technical level, the Commission will ask EFRAG[59] for its opinion on the endorsement of IASs[60]. The second level, the political level is set out by the Regulation in its article 3, completed by articles 6 and 7. Article 3 defines the criteria

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[54] See Moloney, p. 239. Authors generally agree that mechanism is controversial, but they also agree that it is needed

[55] Roberts, Weetman and Gordon, *International Financial Accounting*, p. 225

[56] Moloney p. 239

[57] See appendix for a diagram of the endorsement procedure

[58] For a more detailed description of the committees involved, see Walton, Haller and Raffournier, *International Accounting*, p.17

[59] European Financial Reporting Advisory Group

[60] Cairns, *Applying International Accounting Standards*, p.63

for endorsing IASs, which I will analyse later. Article 6 (1) then provides for the creation of the Accounting Regulatory Committee (**"ARC"**), a body which will assist the commission in the endorsement of the standards. This level of the procedure, taking the form of a comitology[61] procedure, is implemented by article 6 (2), which refers to an instrument containing a general procedure to be followed by the commission to implement the powers conferred to it[62].

This structure is a consequence of the fact that the IAS Regulation gives the Commission broad powers, under the comitology procedure, to apply and implement the Regulation. As of this, the Commission's powers needed to be well circumscribed: To achieve this, Recital (8) of the IAS Regulation reminds the Commission of the Declaration of 5 February 2002 in which the Commission committed itself, in front of the European Parliament, to provide the latter with extensive information in the case it is delegated powers under the comitology procedure. Furthermore, the procedure the Commission has to follow, for the endorsement of IASs, is a very detailed procedure established by the Comitology Decision[63], known as the "Regulatory Procedure". In outline, the political level of the endorsement procedure is as follows[64]:

After advice from EFRAG, the Commission will draft a proposal for adoption of the standards it considers to be fulfilling the adoption criteria. This draft proposal is forwarded to the ARC. The latter will assist the Commission in the endorsement of the standards and it will be chaired by the representative of the commission[65].

The ARC will vote by qualified majority on the Commission's proposal[66]. If the ARC adopts the proposal, the Commission will implement it. In other words, the proposed standards will then be considered as endorsed in the form of a Commission Regulation, and will be published as a Regulation in the Official Journal. Only from

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[61] By which powers are delegated to the Commission which will have to work in collaboration with a committee

[62] Council Decision 1999/468/EEC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the commission, **"The comitology Decision".** This procedure was adopted in 1999 by the Council and can be considered as a framework which the Commission needs to follow.

[63] Article 7 of the Decision

[64] In the case of the IAS Regulation, the « committee » referred to by the Comitology Decision is the ARC

[65] Article 5 (1) of the Comitology Decision

[66] ibid, Article 5 (2)

this moment on will the adopted standards considered to be in force in the EU under the IAS Regulation[67].

If the ARC rejects the adoption proposition, or if it does not give an answer, the Commission shall submit the proposal to the Council, whilst informing the Parliament. In other words, in this case the comitology procedure is interrupted[68].

The European Parliament has the right to inform the Council if it thinks that the Commission has exceeded its powers[69]. The Council may then act on the proposal[70], by qualified majority and within 3 months[71]. If the Council does neither adopt nor reject the Commission's proposal within 3 months, the Commission may adopt the proposal, in which case the IASs referred to in the proposal will receive the status of adopted standards. The same happens if the Council adopts the proposal[72].

If the Council rejects the proposal, the Commission should then re-examine its proposal and do one of three things: either re-submit the proposal, submit an amended proposal or "present a legislative proposal on the basis of the treaty."[73]

The endorsement mechanism contains two major safeguards: First, the Commission will have to "liaise on a regular basis with the Committee about the status of active IASB projects", in order to "coordinate positions and facilitate discussions concerning the adoption of standards"[74]. Secondly, the ARC will have to be informed by the Commission in due time if the latter "intends not to propose the adoption of a standard"[75]

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[67] ibid, Article 5 (3)

[68] ibid, Article 5 (4)

[69] ibid, Article 5 (5)

[70] i.e. either adopt or reject it

[71] ibid, Article 5 (6) in conjunction with article 6 (2) of the IAS Regulation which sets the period to 3 months

[72] ibid, Article 5 (6)

[73] ibid, Article 5 (6)

[74] Article 7(1) of the IAS Regulation

[75] ibid, Article 7 (2)

3) The adoption criteria

The IASs, in order to be endorsed should meet the following criteria[76]:

The annual[77] and consolidated[78] accounts "prepared in accordance with the standards that are to be adopted shall give a true and fair view of the company's assets, liabilities, financial position and profit or loss"[79] (of the undertakings included therein as a whole for the consolidated accounts).

The standards must meet the criteria of "understandability, relevance, reliability and comparability required of the financial information needed for making economic decisions and assessing the stewardship of management."[80]

A third condition is added by Recital 9: The standards should be conducive to the European public good. Although this condition is not repeated within the body of the Regulation, it has to be applied on endorsement of the standards, as it is required by conclusions of the Council of 17 July 2000. It seems important to define the European Public Good for the purpose of the Regulation, as it may impede on the adoption of IASs. According to Van Hulle[81], this concept extends to the need of all the parties involved: the companies and their stakeholders and creditors. This must, however, be combined with the aim of the IAS Regulation, which is to put European companies in a position where they will be able to raise finance easily. In other words, the Regulation should allow European markets to operate competitively. Any standard hindering this would be considered as non-conducive to the public good. Van Hulle goes further in claiming that convergence with US GAAP is also a condition included in the European Public Good, in order to allow EU companies to operate competitively with US companies to raise finance. To make sure that the concept of European Public Good is not misused bluntly to reject standards, Van Hulle invites the IASB to operate transparently and listen to the objections or ideas of the consulted parties[82].

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[76] These criteria are laid out as well by Recital (9) as by article 3 of the IAS Regulation

[77] Fourth Council Directive

[78] Seventh Council Directive

[79] The IAS Regulation actually refers to articles 2 (3) of the Fourth Directive and 16 (2) of the Seventh Directive

[80] Article 3 (2) of the IAS Regulation

[81] Van Hulle, *From Accounting Directives to International Accounting Standards*

[82] *ibid*

B) The endorsed Standards and related controversies

The IAS Regulation provides for the Commission to decide, before 31 December 2002 on the endorsement of the IASs existing at that time[83]. However, until that date nothing seemed to have really happened. There was no real visible progress, apart from the fact that EFRAG had delivered its recommendation[84]. But the real endorsement procedure had not yet been started.

Ten months later a Regulation[85] was finally published by the Commission, in which it endorsed certain standards. What is most special about this new Regulation is the absence of two standards: not only has the commission taken longer than expected to adopt the IASs, it has also rejected two very important standards, IAS 32 and IAS 39.

Also, EFRAG recommended the publication of the IAS framework[86], but this recommendation was not followed. The Commission, however, in its comments on the IAS Regulation, published the framework, stating that it might be of help in the resolution of accounting problems.

1) Which Standards have been endorsed?

In its 19 June 2002 recommendation, EFRAG recommended the endorsement of all the existing IASs and the Interpretations (SICs). More than a year later, the ARC recommended the endorsement of all the standards and their interpretations, apart from IAS 32 and IAS 39[87] and the corresponding interpretations[88]. The Commission followed the ARC's decision and endorsed these standards in the Regulation of 29 September 2003. The form of this regulation draws attention: the body itself is a

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[83] Article 3(3) of the IAS Regulation

[84] cf. infra

[85] Commission Regulation (EC) No 1725/2003 of 29 September 2003 adopting certain international accounting standards in accordance of Regulation (EC) No 1605/2002 (OJ L261)

[86] EFRAG recommended the adoption of all the existing standards "en bloc" in its recommendation of 19 June 2002, available at: http://europa.eu.int/comm/internal_market/accounting/docs/ias/efrag-2002-06-endorsement-letter_en.pdf. However, in its recommendation, EFRAG pointed out that IAS 39 was not ready for immediate use but that the IASB was working on improving it. In the meantime, EFRAG preferred the adoption of an incomplete standard over the adoption of no standard at all. It is interesting to note that this recommendation was given even before the IAS Regulation was officially adopted. This probably shows how important the subject matter was to EFRAG, which wanted to move on as fast as possible

[87] cf. *infra*

[88] SIC 5, 16 and 17

relatively basic instrument with two articles only. It states that all the standards set out in the Annex are adopted[89]. The Annex then is a document of more than 400 pages containing the exact text of the standards and their interpretations. The fact that this document is so voluminous explains the lengthy adoption procedure: the standards had to be translated in all 11 languages[90] of the European Union, a work which took up a longer than expected time. The translations needed to be of high quality, the standards having force of law in the Member States once they are endorsed by the Commission. Furthermore, the ARC could only give an opinion if it was in possession of the translation in all the languages of all the standards[91].

Further developments concern IFRS 1[92]. In its meeting of 3 February 2004, the ARC voted in favour of endorsing this standard and this was done by the Commission on 6th April 2004[93]. As for the subsequent IFRSs (IFRS 2 and those following), the procedure has not yet been started, mainly because they have not yet received the finishing touch by the IASB.

Finally, for the standards being currently revised[94], at the time of writing, the technical level of the procedure has started with EFRAG giving a positive recommendation on their adoption on 3rd March 2004. The ARC has not yet given an opinion.

This shows the complexity of the EU endorsement system of the standards: every time the IASB changes a standard, the entire endorsement procedure will have to be started all over again.

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[89] Article 1 of the Regulation 1725/2003

[90] This requirement is set by article 3(4) of the IAS Regulation. The number of languages will be raised to 20 from 1st May 2004, with the enlargement of the EU

[91] Van Hulle, *From Accounting Directives to International Accounting Standards*

[92] First-time adoption of International Financing Reporting Standards

[93] Commission Regulation (EC) 707/2004

[94] The IASB has revised some standards and published improved versions of these, applicable from 1st January 2005. The standards which have been improved are: IASs 1, 2, 8, 10, 15, 16, 17, 21, 24, 27, 28, 31, 33 and 40. See annex for the fields these standards apply to.

2) The rejected standards: IAS 32 and IAS 39

The Commission, on advice of the ARC, rejected two standards, IAS 32 and 39, both of them relating to financial instruments. EFRAG had recommended adopting these standards, but its advice was not followed[95].

Both standards relate to financial instruments. IAS 32 is about Disclosure and representation and IAS 39 about recognition and measurement.

These standards have been heavily criticised by the financial services industry, it is thus no wonder that they have not been endorsed by the Commission. The main critics are banks and other financial services providers, as they are the companies that will be most affected by these standards: financial instruments make up for the biggest part of their balance sheets. The problem with both of these standards is that they are based on the US standards in these matters. The latter are based on fair value accounting which is widely unknown to the continental European accounting traditions. Banks and insurers are concerned that this may introduce high volatility into their accounts. Another problem is that these standards were drafted in a hurry, notably because of the January 2005 deadline set by the EU to the IASB. As a result, the IASB was not able to develop a principles-based IAS 39 standard, but did not much more than copy the US accounting rules for derivatives, which are not principles-based. European continental banks strongly disapproved with this.[96]

Another point of criticism relates to hedging, which becomes almost impossible with IAS 39 providing for very strict rules for taking these operations into account. Finally, there are also difficulties to obtain fair value accounting for "macro hedging"[97].

As criticism against the IASB has become very harsh[98] over this issue, the board decided to recognise this and return to the drawing board, to draft new versions of the IAS 32 and 39 standards. However, time is an issue, as the standards need to be ready for 1st January 2005, or even earlier to allow preparers of financial statements to get adapted to them. The IASB, following heavy criticism has also decided to change its *modus operandi*, to avoid the same type of crisis to happen again in the future.

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[95] EFRAG endorsement advice of 19 June 2002, cf. supra

[96] *Mongrel's day*, Financial Times, 1st April 2004

[97] Accountancy magazine, October 2003 p. 84

[98] Frits Bolkestein, the EU Internal Market Commissioner , and Sir David Tweedie, Chairman of the IASB, have engaged into a public and very well reported battle, amply recounted in *Take it or leave it*, Financial Times, 31 March 2004

Although the standards are not ready yet, the crisis related to IASs 32 and 39 will probably prove to have been very beneficial to the whole elaboration process of the IASs. Eventually it might even show to have had a positive impact on the quality of the final standards. The IASB has profoundly revised its adoption procedure, first with the creation of an advisory forum and then by redefining its consultation process. The other benefit is that in the future, the IASB will hopefully be less influenced by US standards and might also listen to the EU. The EU still remains the IASB's most important client, at present[99]. Recent events show that the IASB is willing to make concessions, having been put under enormous pressure by the financial services industry. The European Banking Federation has come up with a proposal of redrafting of IAS 39 which would reduce volatility. Sir David Tweedie has conceded that the IASB will have a look at the proposal[100]. However, the IASB is not ready to enter into a similar dialogue with insurance sector[101]. However, if the IASB accepts the Banking Federation's proposals, it will move away from the US standards on financial instruments and convergence will be threatened. The SEC may then withdraw from its concession to allow the listing of companies reporting in IAS[102].

What if these two standards are not adopted for 1st January 2005? In this pessimistic case, there will be some amount of chaos, as the companies targeted by the IAS Regulation will have to prepare their accounts on the basis of IASs, except for the areas covered by the IAS 32 and IAS 39 standards, for which the accounting directives will then still apply. Unless the EU seeks an intermediate solution in the meantime, which would, however, only result in greater chaos. There has been a new development at the end of March 2004, when HSBC, the London-based bank, announced it would use the two standards even if they are still rejected by the commission[103]. The bank prefers its accounts to be said to be reported "in accordance with IASs" over any other situation where they would be considered inconsistent with IASs.

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[99] Frits Bolkestein keeps reminding the IASB of this, *"Take it or leave it"*, Financial Times 31st March 2004

[100] The European Banking Federation has welcomed this move, *Banks change tone with IASB*, Financial Times, 2 April 2004

[101] *IASB to rethink on derivatives*, Financial Times, 16 March 2004

[102] *US warns Europe on accounting rules*, Financial Times, 2 January 2004

[103] *HSBC to adopt new accounting rules*, Financial Times, 31 March 2004

For the sake of the European Public Good and of clarity, it is to hope that the IASB will be ready for 2005 and will have produced standards that the EU can endorse.

Part Three: Which companies will have to use IASs: the scope of application of the regulation

This final part will shed the light on which companies are targeted by the IAS Regulation. As a matter of European Law[104], a regulation is directly applicable to the entities it targets. I will first explain which companies are targeted (A). I shall then move on to the question from which moment on the Regulation will apply to these companies (B).

A) Who will have to report in IASs?

The Regulation provides for a minimum number of companies, depending on their type, to report in IAS. It then allows the Member States to extend its application to other companies. Finally, it also provides for transitional provisions.

1) The minimum requirements of Article 4

Article 4[105] reads as follows:

> *For each financial year starting on or after 1 January 2005, companies governed by the law of a Member State shall prepare their consolidated accounts in conformity with the international accounting standards adopted in accordance with the procedure laid down in Article 6(2) if, at their balance sheet date, their securities are admitted to trading on a regulated market of any Member State within the meaning of Article 1(13) of Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field.*

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[104] Article 249 of the treaty establishing the European Community

[105] titled: **Consolidated accounts of publicly traded companies**

I will now analyse the different elements of this definition one by one:

The IAS Regulation applies to **companies**:
The regulation itself does not give a formal definition of a company. The Commission, in its comments on the IAS Regulation[106], refers to the definition of a company given in the Treaty of Rome[107]. This definition considers as companies, under EU law, any *"company or firm constituted under civil or commercial law"*. This includes *"cooperative societies, and other legal persons governed by public or private law"*. Non-profit societies are excluded from this definition. Further, the IAS Regulation only applies to companies which are governed by the law of a Member State, and not to non-EU companies.
What about companies which are not governed by the law of a Member State but which are listed on a Stock Exchange in the EC: will these also have to report in IASs? The IAS Regulation does not apply to foreign companies, and as such, if they are listed on a European Union stock exchange, they will not fall within the scope of the IAS Regulation, unless they are governed by the law of a Member State. According to Van Hulle[108], the goal of this is to avoid scaring US companies away from European stock exchanges. This will ensure reciprocity to the SEC's commitment to allow the listing, in the US, of companies reporting in IASs.

The Regulation automatically applies to **consolidated accounts** of the targeted companies:
It is important here to distinguish between annual and consolidated accounts. The IAS regulation applies automatically to the latter and may be extended to the former[109]. The IAS Regulation does not regulate whether a company has to establish consolidated accounts or not, this matter is left to national law. However, national law is much harmonised here, and the 7th Council Directive lays out which Companies will have to prepare consolidated accounts[110]. What is also important is that, once it is

[106] *op. cit.* pp. 6 - 7
[107] Article 48 (ex Article 58), second paragraph
[108] Van Hulle, *From Accounting Directives to International Accounting Standards*
[109] cf. infra
[110] cf. Articles 1, 2, 3 (1), 4, 5-9, 11 and 12 of the Seventh Council Directive

made sure that the preparation of consolidated accounts is required, the IASs[111] themselves will take over control and regulate the perimeter of consolidation, i.e. which subsidiaries ill have to be consolidated and which not. In this case, the rules contained in the Seventh Directive (especially on exclusion from consolidation) are overridden by the rules contained in IASs.
One important question remains: why does the Regulation limit its scope to the consolidated accounts? Why does it not extend to the annual accounts of said companies? It is suggested that it was not possible to go further, as most Member States maintain a strong link between accounting and taxation. Accounts prepared in IASs may differ widely from accounts prepared in national GAAP; the impacts on the calculation of tax could be very high in some Member States[112].

The **securities** of these companies need to be listed:
The IAS Regulation applies to companies whose securities are admitted to trading on a regulated market of any Member State.

These securities need to be listed on a **regulated market**:
For the definition of a regulated market, the regulation refers to the Directive on Investment Services in the Securities Field[113]. According to this directive, a regulated Market:

- *appears on the list provided for in Article 16 drawn up by the Member State which is the home Member State as defined in Article 1 (6) (c),*
- *functions regularly,*
- *is characterized by the fact that regulations issued or approved by the competent authorities define the conditions for the operation of the market, the conditions for access to the market and, where Directive 79/279/EEC is applicable, the conditions governing admission to listing imposed in that Directive and, where that Directive is not applicable, the conditions that must be satisfied by a financial instrument before it can effectively be dealt in on the market,*

[111] The rules on consolidation are contained in IAS 27

[112] Walton, Haller and Raffournier, *International Accounting*, p. 10

[113] Directive 93/22/EEC, of 10 May 1993 on investment services in the securities field, OJ L 141, article 1(13)

– *requires compliance with all the reporting and transparency requirements laid down pursuant to Articles 20 and 21*

Approximately 7000 EU companies fall under the ambit of this definition.[114]

2) The option laid out in Article 5

Article 5 allows the individual Member States to decide on whether to extend the use of IASs to companies which do not fall under the definition of article 4. This article provides Member States with a set of options they may choose from. On the one hand, they may extend the use of IASs to other companies, on the other they may decide if this extension will be mandatory or optional.

Member States may extend the use of IASs to the annual accounts (i.e. non-consolidated accounts) of the companies referred to in article 4, which are already forced to prepare their consolidated accounts in IASs[115].

The use of IASs may also be extended to companies not referred to in article 4, for their consolidated and / or annual accounts[116]. This allows Member States to extend the use of IASs to virtually any company governed by their law.

There is one main disadvantage in extending the use of IASs. It relates to the close link between accounting and taxation existing in most countries. In these, companies will have to pay tax in consideration of the profits recorded in their annual accounts. In case the use of IASs is extended, some Member States will have to rewrite their tax laws, in order to take into account the differences in the results obtained in national GAAP with respect to results obtained with IASs.

Nevertheless, the first option may be a wise one to implement, as it will allow companies to work consistently: they are already obliged to prepare their consolidated accounts in IASs, it would then only be logical to give them the opportunity to also report their annual accounts in IASs. As for the other options, it is difficult to establish guidelines to follow, as Member States will have to take in account their national specificities. It is highly probable that countries with major financial centres will want to extend the use of IASs as much as possible, to make their financial centres

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[114] Commission Press release : *Commission adopts Regulation endorsing International Accounting Standards*, Brussels 29 September 2003

[115] Article 5 (a)

[116] Article 5 (b)

attractive for outside investors. Countries without such predispositions may choose not to engage into the excessive burden of rewriting tax laws. They may thus prefer not to use the possibility of an extension of IASs to other companies. Also, some Member States might be cautious about letting an outside body, the IASB, influence too much on their accounting.
In all these cases, Member States will also have to decide whether this extension of IASs is mandatory or only an option for said companies.

Current state of affairs: which Member States plan to implement the extensions?
The Commission has published a table[117] indicating how the different Member States (current and new Member States) intend to implement these extensions.
A general trend that can be observed is that current Member States with important financial centres tend to make use of the options, but rarely introducing it as a requirement. The new Member States are generally in favour of implementing these extensions of the use of[118].

3) The transitional provision of Article 9

Article 9 allows Member States to postpone the application of the IAS Regulation for certain types of companies, to which it would apply under article 4, until the financial year starting on or after 1st January 2007. Basically, two types of companies are concerned:
Those whose debt securities only are admitted on a regulated market **and** those whose securities are admitted to public trading in a non-Member State. However, these companies must have started reporting in "internationally accepted standards" (probably US GAAP) from a financial year that has started prior to the publication of the IAS Regulation (11 September 2002).
This provision was specifically asked for by Germany, which has a large number of companies that are listed in the US and in Germany, reporting in US GAAP only. It gives these companies a little more time to switch from US GAAP to IASs[119].

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[117] see Appendix
[118] see Appendix for a detailed review of the implementation of these options
[119] Van Hulle, *From Accounting Directives to International Accounting Standards*

A majority of countries intend to make use of the first exception. However, a majority of countries intend not to make use of the second exception. The accessing Member States show a general trend of not making use of any of these exceptions.

B) From what moment on will accounts have to be published in accordance with IASs?

The IAS Regulation provides that targeted companies should report in IASs from the financial year starting on or after January 2005. At first one might think that because of this, the first accounts to be reported in IAS would only need to be presented in March 2006 (i.e. for the financial year 2005). This is, however, not true. The first-time adoption is regulated by a standard called IFRS 1. In short, this standard requires companies to produce full accounts in IASs for the year prior to the financial year of adoption of IASs as a reporting standard, for the sake of comparability with previously used GAAP. This means that targeted companies will have to prepare a full set of consolidated accounts in IASs for 2004, which means that the opening balance-sheet for 2004 needs to be prepared in accordance with IASs. This in turn means that the closing balance-sheet for 2003 of these companies will also have to be prepared in accordance with IASs. As a result, the 1 January 2005 date is a totally fictitious date giving an aberrantly incomplete image of the reality of when to really start reporting in IASs.

Finally, companies will also have to provide information on how the transition from previous GAAP to IASs (or IFRSs) affects their financial position, financial performance and cash flows[120].

[120] This is required by IFRS 1

Conclusion

I have now described the purpose of the adoption of a single set of accounting standards and the European way of implementing it. Unfortunately, some criticism needs to be drawn on the way the problem was approached. The first lies with the time schedule, which was obviously too narrow. The final implementation of IASs is very difficult, if not impossible at the present time. The fears, when the IAS project was started, that the companies would not be ready in time, have been replaced. Now there is a fear that the standard setters, the IASB but also the EU, will not be ready for total implementation of the standards in 2005.

Still, there is some concern for companies, as some studies conducted by accounting professionals[121], show that it takes companies between 18 months and 2 years to achieve the transition to IASs. This is a fairly impressive amount of time, especially considering that the standards were only endorsed 15 months before they should have been applied.

It also means that, at the time of writing and, far worse at the time of the adoption of the standards by the Commission, companies would already have had to start planning the transition, without being sure that the commission would end up endorsing the standards.

Running extremely late is the IASB, which draws enormous amounts of criticism. It still has to draw up a version of the IAS 32 and 39 standards the financial services industry can agree on and which can be endorsed by the EU. The Commission also showed to be a late-runner in endorsing the standards, having gravely under-estimated the time it would take to translate the standards. Again, it will be very difficult, if not impossible, to have acceptable IAS 32 and IAS 39 standards before 2005. It will be even more complicated to have them translated on time. The task will become even more difficult as they will now have to be translated in 20 languages, with the enlargement of the EU on 1st May 2004. Very probably, the January 2005 will show to have been far too optimistic.

I appreciate that the time-schedule was much too tight and that a postponement of the date of application of the IAS Regulation's requirements should at least be considered by the Commission.

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[121] Source: KPMG, *EU Companies, IFRS and the capital markets*, available at http://www.kpmg.com

The criticism about the timing left aside, it is important to appreciate the high value the IAS Regulation will offer to the European financial services markets:

Investors will shortly be able to compare the results of different companies listed in different Member States. This will truly integrate this market, a result that can only be welcomed. In the end, what should be blamed is not the result, but the way it was obtained.

As far as the choice of IAS is concerned as the single set (over US GAAP), I can only agree with the Commission's choice. It was reasonable to prefer the adoption of a set of standards where Europe could at least have a minimal[122] influence. If the EU had chosen to adopt US GAAP as a single set of standards, European companies would always be subject to the decisions of the FASB. However, the decision to adopt IASs will only prove to have been a good one if two conditions are fulfilled in the future:

The IASB obtains the convergence with US GAAP it has sought to obtain **and** EU companies (reporting in IASs) are able to seek a listing on a United States Stock Exchange without having to prepare accounts in US GAAP.

The weaknesses of the IAS Regulation undoubtedly lie in its extremely heavy procedural requirements. Although they are needed as a minimal protection, they are totally counterproductive to any evolution of the IASs. It seems overly burdensome to reanalyse standards which have already been taken through a lengthy adoption procedure by the IASB. Nevertheless, the controversy surrounding IAS 32 and 39 shows that the IASB's products are not always ready for the European market. Unless the IASB does change its adoption procedure to obtain more European input and emphasise less on Anglo-Saxon standards, it seems unavoidable to keep the endorsement procedure as part of European law.

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[122] Experience has shown that the EU had a difficult stance in front of the IASB and that, eventually, it could not exercise as much influence as it might have wanted to.

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[1] There are no page numbers for this article, as the book was only available, at the time of writing, in an unpublished version on the Internet.

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Appendix:

Appendix 1: IASB structure and members
Appendix 2: Standards
Appendix 3: Adoption Procedure
Appendix 4: Article 5 option

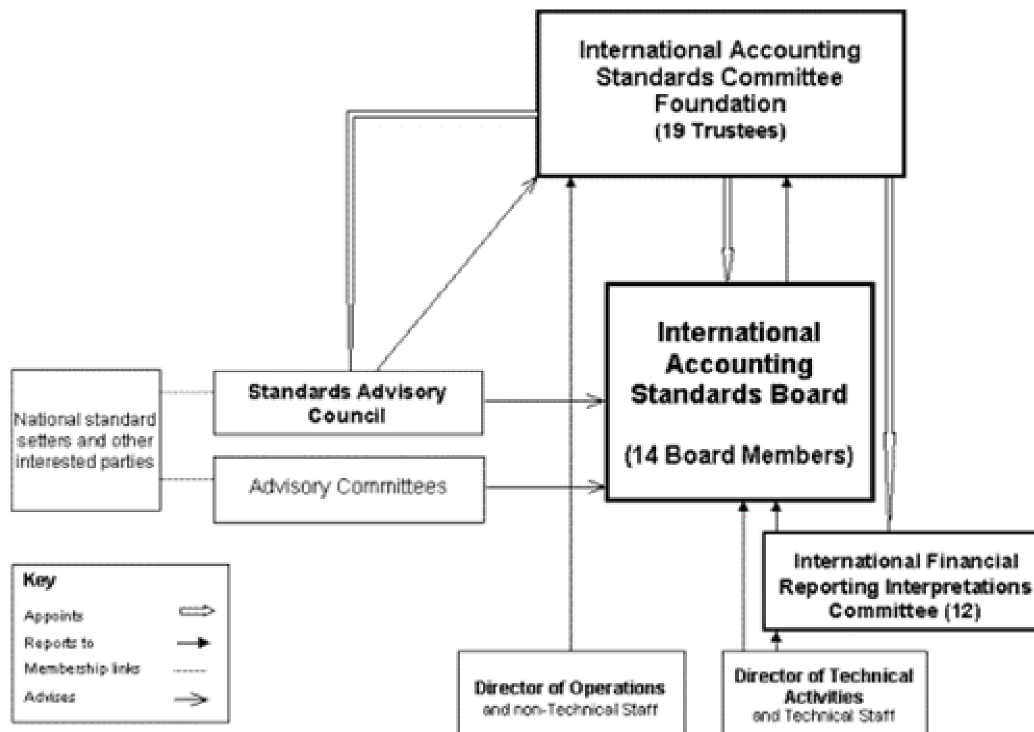
Appendix 1: IASB Structure and members

Structure:

Source: IASB website: http://www.iasb.org/about/structure.asp

The following diagram is a visual representation of the structure of IASB. The structure is designed to support those attributes considered desirable to establish the legitimacy of a standard setting organisation: the representativeness of the decision making body, the independence of its members, and technical expertise.

IASB's structure provides a balanced approach to legitimacy based upon representativeness among members of the Trustees, the International Financial Reporting Interpretations Committee (IFRIC), and the Standards Advisory Council, and technical competence and independence among Board Members.



Members of the IASB:

Name	Position	Background	Country of origin
Sir David Tweedie	IASB Chairman	Accounting	United Kingdom
Thomas E. Jones	IASB Vice-Chairman	Accounting	United Kingdom
Mary Barth	IASB Member	Academic	United States
Hans-Georg Bruns	IASB Member	Corporate	Germany
Anthony T. Cope	IASB Member	Corporate, FASB	United States
Robert Garnett	IASB Member	Corporate	South Africa

Gilbert Gélard	IASB Member	Accounting	France
James J. Leisenring	IASB Member	FASB	United States
Warren McGregor	IASB Member	Accounting	Australia
Tricia O'Malley	IASB Member	Accounting	Canada
John T Smith	IASB Member	Accounting	United States
Geoffrey Whittington	IASB Member	Accounting	United Kingdom
Tatsumi Yamada	IASB Member	Audit	Japan

The composition of the IASB explains its heavy criticism by European companies, especially banks. The continental European accounting tradition is strongly under-represented in the IASB, whereas the Anglo-Saxon accounting traditions are overly represented. Nevertheless, the different backgrounds of the members are extremely well balanced, which, in my opinion, will favour the elaboration of high-quality standards.

Appendix 2: Standards

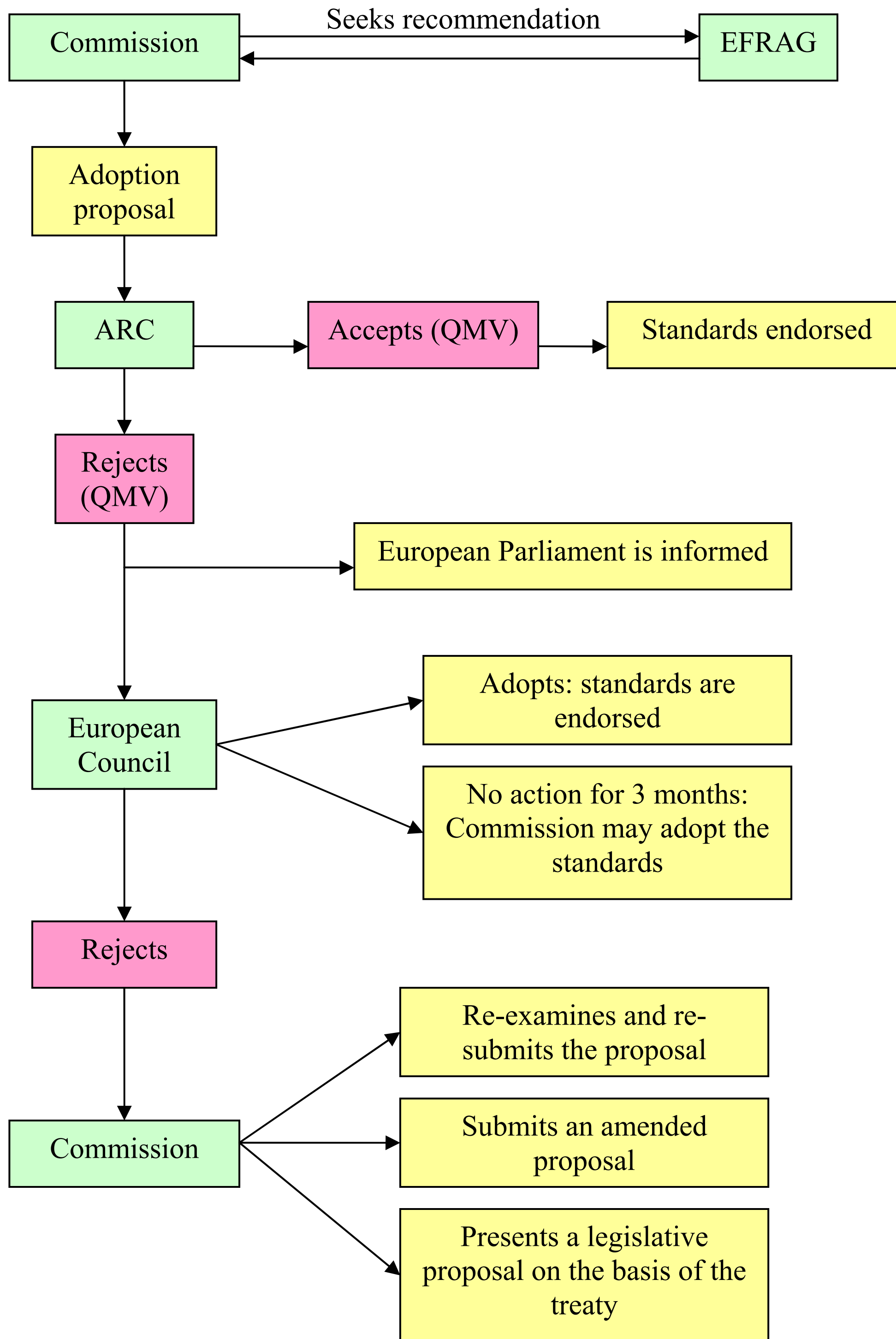
Source: **www.iasplus.com**

Name Accounting Issue	Date of adoption
IFRS 1 First-time Adoption of International Financial Reporting Standards	June 2003
IFRS 2 Share-based Payment	February 2004
IFRS 3 Business Combinations	March 2004
IFRS 4 Insurance Contracts	March 2004
IFRS 5 Non-current Assets Held for Sale and Discontinued Operations	March 2004
IAS 1 Presentation of Financial Statements	Dec. 2003
IAS 2 Inventories	Dec. 2003
IAS 3 Consolidated Financial Statements. Originally issued 1976, effective 1 Jan 1977. No longer effective. Superseded in 1989 by IAS 27 and IAS 28.	--
IAS 4 Depreciation Accounting. Withdrawn in 1999, replaced by IAS 16, 22, and 38, all of which were issued or revised in 1998.	--
IAS 5 Information to Be Disclosed in Financial Statements. Originally issued October 1976, effective 1 January 1997. No longer effective. Superseded by IAS 1 in 1997.	--
IAS 6 Accounting Responses to Changing Prices. Superseded by IAS 15.	--
IAS 7 Cash Flow Statements	1992
IAS 8 Profit or Loss for the Period, Fundamental Errors and Changes in Accounting Policies	Dec. 2003
IAS 9 Accounting for Research and Development Activities. Superseded by IAS 38 effective 1.7.99	--
IAS 10 Events After the Balance Sheet Date	1999
IAS 11 Construction Contracts	1993

IAS 12 Income Taxes	2000
IAS 13 Presentation of Current Assets and Current Liabilities. Superseded by IAS 1.	--
IAS 14 Segment Reporting	1997
IAS 15 Information Reflecting the Effects of Changing Prices	Withdrawn Dec. 2003
IAS 16 Property, Plant and Equipment	Dec. 2003
IAS 17 Leases	Dec. 2003
IAS 18 Revenue	1993
IAS 19 Employee Benefits	2002
IAS 20 Accounting for Government Grants and Disclosure of Government Assistance	1983
IAS 21 The Effects of Changes in Foreign Exchange Rates	Dec. 2003
IAS 22 Business Combinations	1998
IAS 23 Borrowing Costs	1993
IAS 24 Related Party Disclosures	Dec. 2003
IAS 25 Accounting for Investments. Superseded by IAS 39 and IAS 40 effective 2001.	--
IAS 26 Accounting and Reporting by Retirement Benefit Plans	1987
IAS 27 Consolidated Financial Statements and Accounting for Investments in Subsidiaries	Dec. 2003
IAS 28 Accounting for Investments in Associates	Dec. 2003
IAS 29 Financial Reporting in Hyperinflationary Economies	1989
IAS 30 Disclosures in the Financial Statements of Banks and Similar Financial Institutions	1990
IAS 31 Financial Reporting of Interests In Joint Ventures	Dec. 2003
IAS 32 Financial Instruments: Disclosures and	Dec. 2003

Presentation	
IAS 33 Earnings Per Share	Dec. 2003
IAS 34 Interim Financial Reporting	1998
IAS 35 Discontinuing Operations	1998
IAS 36 Impairment of Assets	March 2004
IAS 37 Provisions, Contingent Liabilities and Contingent Assets	1998
IAS 38 Intangible Assets	March 2004
IAS 39 Financial Instruments: Recognition and Measurement	March 2004
IAS 40 Investment Property	March 2004
IAS 41 Agriculture	2001

Appendix 3: Adoption Procedure



QMV = Qualified Majority Voting

Appendix 4: Article 5 Option

Option 1: extend the use of IAS to the annual accounts of the companies caught by article 4

All the Member States with financial centres have decided in favour of **allowing** (but not **requiring**) the use of IASs for the preparation of annual accounts for companies targeted by the IAS Regulation. This is the case, for instance, in The United Kingdom, the Netherlands, Germany, Ireland, and Luxembourg which will **allow** the use of IASs. Liechtenstein (a Member State of the EEA to which this Regulation also applies), has also decided to extend the use of IASs. Some countries have expressed concerns (Belgium, France, Luxembourg), because of the strong link between taxation and accounting in their legal systems.
Of the new Member States, at least half (Czech Republic, Estonia, Lithuania, Slovakia and Slovenia) will **require** article 4 companies to report their annual accounts in IASs. Poland intends to **allow** the use of IASs. Only Hungary and Latvia do not want to extend the use of IASs at all.

Option 2: Extension of the use of IASs to consolidated accounts of other companies (not falling under the definition of article 4):

All current Member States want to at least **allow** the use of IASs for the consolidated accounts of these other companies. However, some Member States intend to implement some restrictions, for instance: Luxembourg wants to limit the extension to banks, Portugal only to companies with certified accounts. The United Kingdom wants to exclude charities; Italy intends to exclude small enterprises.
Some countries go further by **requiring** the use of IASs for these companies, under certain conditions: Belgium intends to extend only to credit institutions, Germany only to companies which have filed for a listing and Italy only to supervised financial companies, to companies with financial instruments widely distributed among the public and to insurance companies.
For New Member States, there is great enthusiasm for this option, with a majority of countries either **allowing** (Czech Republic, Estonia, Hungary, Slovakia and Slovenia) or even **requiring** (Estonia, Lithuania, and Slovenia only for credit institutions, and Slovakia which will apply IAS to all companies) the use of IASs in this case.

Option 3: Extension of IAS to annual accounts of other companies:

Only Italy, Estonia, Lithuania and Slovenia will **require** the use of IASs in this case (with the same restrictions as for option 2).

Most countries will make use of the option to **allow** the use of IASs for the preparation of the annual accounts of these other companies. The only exceptions are France, Austria and Spain. In the EEA, Norway will be the only country not to use the option.

Planned Implementation of the IAS Regulation (1606/2002) in the EU and EEA (Published for information purposes only) **Date 8/03/04**

European Commission	**Austria**	**Belgium**	**Denmark**	**Finland**	**France**	**Germany**	**Greece**	**Italy**	**Ireland**
Status of the implementation of IAS	Proposal	Proposal	Proposal[1]	Consultation	Proposal	Proposal	Final law	Final law	Consultation[2]
Article 5(a) of the IAS Regulation **LISTED COMPANIES** **1.** Will your MS use the option to **permit** IAS in the **annual accounts** for listed companies?	No	See footnote [3]	Until 2009: Yes After 2009: No	Yes	Not until tax and legal questions are settled	Yes[4]	No	No	Probably yes
2. Will your MS use the option to **require** IAS in the **annual accounts** for listed companies?	No	See footnote [3]	Until 2009: No After 2009: Yes	No	No	No	Yes	Yes[5], except for insurance	No

Article 5(b) of the IAS Regulation **OTHER COMPANIES** **1.** Will your MS use the option to **permit** IAS in the **consolidated accounts** for other companies? If yes, what type of companies?	Yes, all companies	Yes, probably all types	Yes, all types	Yes[6], all types	Yes, consolidated companies	Yes, all types	Yes[6]	Yes, except for small enterprises	Yes, probably all types
2. Will your MS use the option to **require** IAS in the **consolidated accounts** for other companies? If yes, what type of companies?	No	Possibly for credit institutions Probably in the future for other companies	No	No	No	Yes, companies, which have filed for a listing	No	Yes, some companies[7]	No
3. Will your MS use the option to **permit** IAS in the **annual accounts** for other companies? If yes, what type of companies?	No	See footnote [3]	Yes, all types	Yes[6], All types[8]	No	Yes [4] All types	Yes[6]	Yes, except for insurance., small enterprises and required companies	Yes, probably all types
4. Will your MS use the option to **require** IAS in the **annual accounts** for other companies? If yes, what type of companies?	No	See footnote [3]	No	No	No	No	No	Yes, some companies[9]	No

Article 9 of the IAS Regulation **(a)** Will your MS use the option to **defer** the application of IAS **until 2007** for companies whose debt securities only are admitted on a regulated market of any MS?	Probably yes	Probably yes	Yes	Yes	Yes, possibly	Yes	No	No	No
(b) Will your MS use the option to **defer** the application of IAS **until 2007** for companies whose securities are admitted to public trading in a non-member State and which, for that purpose, have been using internationally accepted standards since a financial year that started prior to the publication of the IAS Regulation in the OJ?	Probably yes	Probably yes	No	No	No	Yes	No	No	No
Miscellaneous Is earlier adoption (before 2005) of IAS allowed? If yes, for what type of companies/ from when?	Yes, cons. accounts since 1998	Yes, cons. accounts for all companies	Yes, when a full set of IASs are adopted	1.Listed cos: cons. accounts 30.9.2003 2. Other cos (not ins. cos): all accounts 2004	No	Yes, option for listed companies (as from 1998)	31.12.2004 Yes[6]	No	No

[1] Denmark: Proposal pending in Parliament. Covers all enterprises except financial companies/institutions. As regards financial entities it is foreseen that they will be neither permitted nor required to use IAS.
[2] Ireland: The information given is only indicative and might still change after completion of the consultation process
[3] Belgium: To be examined with tax and legal aspects
[4] Germany: For purposes of information only. Financial statements that are in line with national accounting law will continue to be required for purposes of profit distribution, taxation and financial services supervision
[5] Italy: Listed insurance enterprises must comply with IAS only if they do not draw up consolidated accounts
[6] Finland and Greece: Companies, which are audited by certified auditors
[7] Italy: Supervised financial companies; companies with financial instruments widely distributed among the public; insurance companies.
[8] Finland: Application of national law will be mandatory for insurance companies in annual accounts for a transition period.
[9] Italy: Supervised financial companies; companies with financial instruments widely distributed among the public

European Commission	Luxemburg	Netherlands	Portugal	Spain	Sweden	UK	Norway	Iceland	Lichtenstein
Status of the implementation of IAS	Work group	Consultation	Work Group[10]	Final law	Proposal	Consultation	Consultation	Work group	Final law
Article 5(a) of the IAS Regulation **LISTED COMPANIES** **1.** Will your MS use the option to **permit** IAS in the **annual accounts** for listed companies?	Yes, possibly 2007 if tax solution	Yes	No	No	Yes	Yes	Probably no	Yes	Yes
2. Will your MS use the option to **require** IAS in the **annual accounts** for listed companies?	Probably no	No	Yes	No	No	No	No	Probably no	No
Article 5(b) of the IAS Regulation **OTHER COMPANIES** **1.** Will your MS use the option to **permit** IAS in the **consolidated accounts** for other companies? If yes, what type of companies?	Yes, banks 2003	Yes, all types	Yes, companies with certified accounts	Yes, all types	Yes, all types	Yes, all types of companies except for the charity sector	Probably yes. All types	Yes, all types	Yes, all types
2. Will your MS use the option to **require** IAS in the **consolidated accounts** for other companies? If yes, what type of companies?	Probably no	No	No	No	Possibly for the financial sector[11]	No	No	No	No
3. Will your MS use the option to **permit** IAS in the **annual accounts** for other companies? If yes, what type of companies?	Yes possibly 2007 if tax solution	Yes, all types	Yes, companies with certified accounts	No	Yes, all types	Yes, all types of companies except for the charity sector	Probably no	Yes, all types	Yes, all types
4. Will your MS use the option to **require** IAS in the **annual accounts** for other companies? If yes, what type of companies?	Probably no	No	No	No	No	No	No	No	No
Article 9 of the IAS Regulation **(a)** Will your MS use the option to **defer** the application of IAS **until 2007** for companies whose debt securities only are admitted on a regulated market of any MS?	Probably yes	No	No	Yes, except for banking sector companies	Yes	No	Yes	Probably yes	No
(b) Will your MS use the option to **defer** the application of IAS **until 2007** for companies whose securities are admitted to public trading in a non-member State and which, for that purpose, have been using internationally accepted standards since a financial year that started prior to the publication of the IAS Regulation in the OJ?	No decision yet	No	No	No	No	No	Yes	Probably yes	No
Miscellaneous Is earlier adoption (before 2005) of IAS allowed? If yes, for what type of companies/ from when?	Derogations on an individual basis	No	No	No	No	No	No, but nearly possible within national rules	Probably yes	31.12.2002 Yes, all types

[10] Portugal: Proposal submitted by CNC to Government. Does not include the position of the banking and insurance sector
[11] Sweden: A requirement for financial institutions and insurance companies to apply IAS would earliest enter into force 2006.

Planned Implementation of the IAS Regulation (1606/2002) in the new Member States **(Published for information purposes only)** **Date: 01/05/04**

European Commission	Czech Rep.	Cyprus	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Slovakia	Slovenia
Status of the implementation of IAS	Final law		Final law	Final law	Final law[1]	Final law		Consultation	Final law	Proposal
Article 5(a) of the IAS Regulation **LISTED COMPANIES** **1.** Will your MS use the option to **permit** IAS in the **annual accounts** for listed companies?	No		No	No[2]	No[3]	No		Yes, except for investment funds	No	No
2. Will your MS use the option to **require** IAS in the **annual accounts** for listed companies?	Yes		Yes	No	No	Yes		No	Yes	Yes
Article 5(b) of the IAS Regulation **OTHER COMPANIES** **1.** Will your MS use the option to **permit** IAS in the **consolidated accounts** for other companies? If yes, what type of companies?	Yes All types of companies		Yes All types	Yes, all types of companies within the scope of Act of Accounting	No[3]	No		No	Yes	Yes, all types of companies which decide to use IASs for at least 5 years
2. Will your MS use the option to **require** IAS in the **consolidated accounts** for other companies? If yes, what type of companies?	No		Yes, credit and other financial institutions	No	No	Yes, for banks		No	Yes, all types.[4]	Yes, for banks and insurance companies
3. Will your MS use the option to **permit** IAS in the **annual accounts** for other companies? If yes, what type of companies?	No		Yes All types	No[5]	No[3]	No		No	No	Yes, all types of companies which decide to use IASs for at least 5 years
4. Will your MS use the option to **require** IAS in the **annual accounts** for other companies? If yes, what type of companies?	No		Yes, credit and other financial institutions	No	No	Yes, for banks		No	No	Yes, for banks and insurance companies
Article 9 of the IAS Regulation **(a)** Will your MS use the option to **defer** the application of IAS **until 2007** for companies whose debt securities only are admitted on a regulated market of any MS?	No		No	Issue under consideration	No	No		Yes	No	No
(b) Will your MS use the option to **defer** the application of IAS **until 2007** for companies whose securities are admitted to public trading in a non-member State and which, for that purpose, have been using internationally accepted standards since a financial year that started prior to the publication of the IAS Regulation in the OJ?	No		No	Issue under consideration	No	No		No	No	No
Miscellaneous Is earlier adoption (before 2005) of IAS allowed? If yes, for what type of companies/ from when?	Yes[6]		Yes All types 01.01.2003	No[5]	No[3]	Yes, for banks since 1997		No	Yes, listed companies since 01.01.2004	No

[1] Latvia: Legislation currently in force. Covers all enterprises except financial and capital market participants (banks, insurers, etc)

[2] Hungary: The application of IAS for informal purposes is permitted, and the listing rules are in some cases requires the application of IAS. Nevertheless the companies are obliged to prepare annual accounts according to the Accounting Act. Changing of position is not anticipated until the tax and legal issues are not solved.

[3] Latvia: Companies can use IAS in the annual and consolidated accounts as so far as it is not in conflict with national accounting laws.

[4] Slovakia: Application of IAS for preparing consolidated accounts for all companies (listed and non- listed) from the year 2005.

[5] Hungary: It is permitted to apply IASs for informal purposes, however the companies are obliged to prepare annual accounts according to the Accounting Act. It is not anticipated to change the position before the tax and legal issues are solved.

[6] Czech Rep.: Yes, effective from the first accounting period following after Accession Treaty come into force, for companies mentioned above