

SUMMARY OF THE CONFERENCE ON INTERNATIONAL ACCOUNTING STANDARDS: ACCOUNTING REFORM AND ITS IMPLICATIONS FOR MERCANTILE LEGISLATION

26th October, 2007

Continuing on the conference dedicated to *Mercantile Legislation and International Accounting Standards Reforms* held in October 2006, the same organisers – the ESADE Law School (URL) and the Registry of Economists and Accountants of Catalonia (with the collaboration of the Bienvenido Oliver Association of Registrars) – scheduled a new conference for October 2007 to further explore and discuss the matter, all within the Continuing Education programme's set of activities. This year's session was called: ***Conference on International Accounting Standards: Accounting reform and its implications for mercantile legislation***. The current situation certainly merits this discussion. The implementation next fiscal year of Law 16/2007 dated July 4 regarding the *reform and adaptation of mercantile legislation to international standardisation standards according to European Union norms* implies important changes for our accounting model and, thus, demands important reflection on our part. Not only are certain accounting models going to change or are other accounting statements going to appear. The reform goes well beyond this: the entire accounting paradigm and accounting system will change and soon be based on a new conceptual framework within International Financial Reporting Standards (IFRS), requiring the joint application of a new General Accounting Plan. This accounting reform is unavoidably based on mercantile legislation and, in particular, on corporate legislation. Additionally, it also implies profound fiscal reforms which the ESADE Law School will study in the near future.

This Conference was held on Friday, October 26th, and several prestigious specialists participated, later opening up the discussion to the approximately 80 conference participants. **The conference was inaugurated by Dr. Pedro Miroso**, Dean of the ESADE Law School (URL) **and by Mr. Emilio Álvarez**, President of the Registry of Economists-Auditors (REA) – College of Economists of Catalonia, who briefly introduced the conference on behalf of the organising entities. The programme consisted of three successive roundtables.

The **first roundtable was moderated by Mr. Josep M^a Garreta**, Attorney and Academic Assistant at the ESADE Law School (URL), **and included lectures by Dr. Oriol Amat**, Chair of Finance and Accounting at the Universidad Pompeu Fabra (UPF) **and by Ms. Ana Martínez-Pina**, Vice Director General Adjunct for Standardisation and Accounting Techniques within the Institute for Accounting and Auditing belonging to the Ministry of the Treasury.

Dr. Amat is well-informed on the new legislation as he participated in drafting the new General Accounting Plan (PGC). His presentation was entitled the ***“General characteristics of the accounting framework”***, examining the reform from an accounting perspective. His detailed presentation was centred on a review of the majority of questions raised by the new legislation and the primary changes introduced with respect to the 1990 PGC while, at the same

time, bearing in mind the IFRS which Spain has not yet completely adopted, thus explaining why the new PGC does not coincide with some of the matters discussed. Dr. Amat emphasised that the aim of the reform is to tackle specific problems or issues of reliability, comparability and relevance as a result of international pressure and, more concretely, pressure from the EU to improve financial reporting. He discussed the criteria used to prepare the new PGC and its conceptual framework which includes accounting principles. Among the important changes included in the new PGC, Dr. Amat highlighted that *Prudence* is no longer prevalent and that balance statements refer to *Assets, Liabilities and Net Patrimony*, the latter being the residual part of a company's assets once all its liabilities have been deducted. At the same time, he warned in his conclusions that the IFRS have been created from a financial perspective and for forecasting, but that since it is a very complex and disjointed norm, with many alternatives and different levels of adoption, in practice, problems would arise.

Ms. Ana Martínez-Pina examined the topic from a legal perspective. In her presentation ***“An approach to the accounting reform’s new legal framework”***, she began by summarising European legislation regarding Accounting Law (Directives and Regulations) as well as the situation in Spain, and of the option chosen to gradually reform Spanish accounting processes in order to make it easier to compare the financial doctrines of those companies acting internationally. She discussed Law 16/2007, dated 4 July, analysing its content and focusing on the 1st Final Disposition introducing a PGC among SMEs. After reviewing the pillars of the reform, Ms. Martínez described the structure of the new PGC, highlighting the second part which refers to registration and valuation norms and is the most novel part.

The **second roundtable was moderated by Dr. Enric R. Bartlett**, Vice Dean of Continuing Education within the ESADE Law School (URL). Participants included Mr. Javier Valle, Attorney and Partner in the Uría Menéndez firm (in Barcelona) and Dr. Emilio Gironella, Partner in Gironella Velasco Auditores, SA, and Professor of Accounting and Auditing at the UPF.

Mr. Javier Valle’s presentation was entitled *“Conceptual adjustments between accounting and Mercantile Law.”* He highlighted that the chosen standards of reference for accounting reform was the IASB’s, a private organisation, thereby implying a clear risk: incorporating into Spanish legislation a set of norms established in an Anglo-Saxon mercantile legal setting which is very different from our own. His presentation centred on an analysis of the main axes of the reform from a mercantile perspective, distinguishing between formal reforms and substantive modifications in relation to the previous regulations as well as some foreseeable consequences. As such, included among the questions analysed were the prevalence of content over structure, lamenting that its wording was not very clear. At the same time, he signalled that Net Patrimony, defined by exclusion, should perhaps have its own definition. He also pointed out that, according to the definition used in the new regulation, *Liabilities* (for example, non-voting shares) are considered social capital but that, up until the present, they were included among assets.

Dr. Emilio Gironella, for his part, **discussed the “*The framework of annual account models*”**. He offered a detailed summary of all its aspects with practical observations, some of these referring to some unnecessary requirements within the new regulation. He ended his presentation with an example of the new regulation’s applications, revealing the difficulties in interpreting it. To conclude, he signalled that the balance model is better than the current one to correct certain deficiencies and improve the presentation of specific items. Nevertheless, the fact that financial assets can be classified according to their investment objectives and thereby be evaluated differently will allow for certain transactions to be presented in accordance with the specific interests of the administrators. In addition, the profit and loss account model has two significant defects: it itemises expenses by their nature and not by their function (which means that their objective is to inform third parties and not inform about management results); it also eliminates extraordinary items (now called exceptional) as a separate level within the P&L account (something which will lead to a “biased” presentation of operating profit or losses). Additionally, the model chosen to reflect cash flow (a combination of the direct and indirect method to report flows) will lead to most people not knowing which operation has been charged or paid for. Lastly, in the first section, the changes in net patrimony statements (income and recognised expenditure) are very disjointed and not very clear, especially for laymen.

The **third roundtable was moderated by Mr. Emilio Álvarez**, President of the Registry of Economists-Auditors (REA) – College of Economists of Catalonia, **and included a presentation by Dr. Luís Fernández del Pozo**, Chair of Private Law in the ESADE Law School (URL) and Mercantile Registrar, who discussed “***Accounting Law: mergers and divisions***”. His presentation focused on some substantive modifications implied by the accounting reform on these areas and he referred to the legal vacuum regarding inter-group operations which, even though they resemble mergers, they are treated differently, a problem which, in his opinion, will have to be resolved by applying Standard 21 within the new PGC instead of Standard 19. This explains which mergers are re-appreciated and whose patrimony increases, though inter-group mergers maintain previous accounting values. Also worth highlighting is that this re-valuation only affects the patrimony of the purchased company, never the purchaser. At the same time, he signalled that the new regulation establishes that the share exchange ratio is determined by *actual values* when it would be better to use *reasonable values*. We must bear in mind that the exchange ratio does not derive from a mechanical accounting ratio; it is based on updated accounting information but is not the result of free negotiation, and, if it is not fair, it can be challenged. There is, then, room for manoeuvre among the parties.