

UK POSITION ON PROPOSAL FOR A MEMBER STATE OPTION TO EXEMPT MICRO ENTITIES FROM 4TH AND 7TH DIRECTIVES

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1. During the first Council Working Group session on micros and in their position papers, Member States have taken one of three basic positions:
 - a. Opposition because they thought it was probably a bad idea to implement this option in their own Member State
 - b. Support even although they would not implement this option in their Member State
 - c. Support because they probably would implement this option in their Member State.
2. The Member States who opposed the micros option raised a number of serious issues including:
 - a. The costs would exceed the benefits for their own economy through reduced transparency of limited liability companies, , including the effects on their own national registry;
 - b. The information requirements of funding providers in their Member State;
 - c. The failure to meet the information requirements of management, shareholders, and third parties including tax authorities and statistical authorities in their Member State;
 - d. Reduced information requirements inhibiting the potential growth, including cross-border growth, of micro-entities; and
 - e. The damaging effects of an increased variety of regulatory practice among Member States for micro-entities would be harmful to the EU.
3. These points illustrate the variety of business, accounting, filing and credit practice among micro-entities in different Member States, and therefore raise a number of very useful questions about the kind of issues that any Member State considering implementing the micros option would need to carefully consider. This could well mean that for a number of Member States a cost-benefit would lead them to the rational conclusion that their economy would not benefit from implementation of the option. On the other hand, other Member States where business and economic practice differed could come to the conclusion that micro-entities would be beneficial to their firms and economies. **The maximum benefit to the EU from a micro-entities option will be achieved if it is implemented in Member States where benefits exceed costs and not in Member States where the reverse is the case.** Thus the UK supports the introduction of the micro-entity as an option for Member States, whilst recognising that

there are likely to be a range of approaches to micro-entities by different Member States.

4. We do not see an increased variety of regulatory practice as a problem, but instead as an opportunity for individual MS to regulate micro-entities that operate almost exclusively at Member State level, in a way that benefits each Member State, and hence the EU as a whole.
5. Whilst the reactions of different Member States to the introduction of the option are a useful warning about the kind of factors that need to be considered by each Member State when deciding whether or not to implement a micro-entity option, they are not a good reason for opposition to the option being made available for all Member States. There are clearly a number of Member States who are content with this approach because there are Member States who have already declared their support for the micro-entity proposal, even though they have declared that they would be unlikely to implement it.
6. Given the discussion above, opposition to permitting the micro-entity option for all Member States should only arise if implementation in one or more Member States would cause costs for other (non-implementing) Member States or for the EU in general, that outweigh the benefits arising to implementing MS and the EU in general.
7. Issues that have been raised in this context are:
 - a. The amount of cross-border trade or investment carried on by micro-entities, and the cross-border transparency associated with this;
 - b. A 'race to the bottom' in regulatory terms with Member States that would prefer not to implement the micro-entity option being forced to do so because other MS have implemented the micro-entity option.
8. The Commission have provided EU aggregate figures that suggest that only a very low percentage of cross border trade is carried on by micro-entities and that only a small percentage of cross-border entities carry on cross border trade. The UK economy mirrors the EU aggregate figures but evidence from some Member States suggests that the aggregates may hide some Member States variability in this respect.
9. The 'race to the bottom' argument seems to arise because some non-implementing Member States fear that firms from their Member State will choose not to register in their own Member State but will shift registration to Member State where the micro-entity option has been implemented (eg firms economically active in non-implementing country A, register as legal entities in implementing country B, even though they have no economic presence in country B). This might also lead to some loss of visibility of these firms in country A.

10. Whether this result would actually occur would partly depend on how those Member State implementing the option did so. In the UK, for example, the aim would be to use the micro-entity option to simplify and unify financial and tax reporting. It seems unlikely that micro-entities from other Member States would wish to calculate and provide annual returns to UK authorities based on a unified UK financial and tax code, and then have to re-compute these figures to comply with their domestic legislation.
11. However, because these are potentially EU level issues, and others of a similar nature may arise, it would be useful to investigate and discuss them in the Working Group to establish the size and nature of any problems and what mitigating changes might be made to the micro-entity proposal to resolve them.
12. It has been suggested by some that this proposal should be delayed, and dealt with together with the other reforms to the 4th and 7th Accounting Directives currently being consulted on by the Commission. However, these are likely to take years to negotiate. By contrast, the micros proposal
 - a. is straightforward;
 - b. will have immediate financial benefits, which will help micro businesses at this difficult time; and
 - c. will make it possible for the EU to meet its target to reduce the administrative burden for companies of existing regulation stemming from EU law by 25% by 2012.
13. Finally, this deregulatory proposal, aimed at those businesses suffering from the current financial crisis, is quite consistent with the desire of the EU to increase regulation of those sectors responsible for the creation of the crisis.

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