

## LAPFF Calls on MEPS to Safeguard Shareholders and Block Defective Banks' Accounting Standard

### Further Legal Opinion from Bompas QC Challenges FRC Position

London: 10am BST: The Local Authority Pension Fund Forum (LAPFF) today [publishes](#) a further Opinion from Mr George Bompas QC, in pursuit of defective accounts and challenges how defective accounting standards have been implemented, and finds significant flaws in the position of the UK Financial Reporting Council (FRC). LAPFF has sent the Opinion to key members of the European Parliament, and seeks to stop the endorsement by the EU of the proposed standard applicable to banks, IFRS 9.

Cllr Kieran Quinn, LAPFF Chair said, *“LAPFF has been at forefront of showing how the financial crisis started in the banks, hidden by defective accounting standards. LAPFF is always concerned where shareholder value is at risk.”*

*“Once again LAPFF has taken the unusual step of seeking Queen’s Counsel opinion, from Mr George Bompas QC, a senior advocate and judge, as LAPFF did not accept the position of the Financial Reporting Council (FRC) and its legal counsel in making various statements about international accounting standards and the law.”*

*“LAPFF has for some time been challenging the position of the FRC. LAPFF believes that the FRC should be equally concerned about protecting shareholder value, and would like the FRC to step away from a clearly flawed position and join with the Forum to call for real improvements in accounting standards so that they are in line with the law.”*

*“LAPFF independent approach has far reaching consequences. Because the ‘true and fair view’ requirement of European law has its origins in UK law, any defective legal position taken by the FRC will not only have compromised the FRC’s position in the UK and Republic of Ireland, but it will also have misinformed the position of EFRAG<sup>1</sup>, as well as the Commission, for the whole EU.”*

*“The FRC hasn’t merely got the wrong end of one stick but two” Cllr Quinn said.*

In the Opinion, Mr Bompas identifies two core problems with accounting standards and the position of the FRC:

- International accounting standards (despite what has been purported by the FRC and its counsel) do not permit or require an overarching obligation to give a ‘true and fair view’ but something different, so-called ‘usefulness’ that does not equate to the legal standard. Furthermore, that sub-standard objective fails to relate to the precise **matters** required of EU law, being the assets, liabilities, financial position, profit or loss as **specific numbers in the accounts**<sup>2</sup>. The International Financial Reporting Standards (IFRS) system instead applies its vague ‘usefulness’ standard to basically anything in the accounts, on the flimsy basis that words can substitute for the basic numbers.

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<sup>1</sup> The European Financial Advisory Group (EFRAG) recommends whether international accounting standards can be adopted by the EU.

<sup>2</sup> Para 9 of the Opinion.

- Mr Bompas is also clear (contrary to the position of the FRC) that if the accounts of a company do not enable a determination of **distributable profits (i.e. real profits) as stated** in the accounts, which is a central purpose of accounts in law, then the accounts will not give a true and fair view, furthermore International accounting standards have not been drafted with this core objective in mind. The standards mix up “paper profits” with real ones, and leave out likely losses.

The Opinion states that, in coming to its defective position, the FRC’s legal counsel was **relying on defective advice** produced by the Institute of Chartered Accountants in England and Wales (ICAEW) and Institute of Chartered Accountants of Scotland (ICAS) (i.e. the accountancy profession). The ICAEW/ICAS position according to Mr Bompas ‘*is simply not what was provided for*’ by the legislation in place then or now.

Cllr Kieran Quinn said: *“The fact that ICAEW guidance is wrong, and that the FRC position is similarly wrong by relying on it, raises a fundamental question as to why the FRC as regulator could ever think it was appropriate to rely on the position of the professional body it is supposed to regulate. There is an obvious conflict of interest here.”*

Furthermore, in LAPFF’s view, the result of this is that the current position of EU endorsed international accounting standards is legally defective. Also the proposed endorsement of IFRS 9 (the proposed standard applicable to banks) would also be defective because the form of fair value accounting in IFRS 9 does not enable a determination of distributable profits because unrealised mark-to-market and mark-to-model gains are mixed up with realised profits.

Cllr Kieran Quinn said *“LAPFF believes that members of the European Parliament should overwhelmingly reject IFRS 9 in its current form, and seek a full independent review of the legal processes of IFRS endorsement, to ensure the proper application of the true and fair view requirement, in terms to be set down by the Parliament itself”*.

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