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Investors call for IFRS review as legal opinion finds it 'substantially flawed'

by Naomi Rainey, 19 Jun 2013

AN INVESTOR GROUP comprising the Local Authority Pension Fund Forum (LAPFF), the Universities Superannuation Scheme (USS), Threadneedle Asset Management and the UK Shareholders Association sought legal opinion from Lincoln's Inn counsel George Bompas QC on the standards used for accounting by banks and other companies.

Bompas' opinion identified inconsistencies between IFRS and existing company law, suggesting directors must override the accounting standards in order to comply with competing legislation, *Accountancy Age's* sister publication Professional Pensions reports.

The conclusions said: "In his opinion the specified accounting outcomes required by IAS 39 (the standard particularly applicable to banks) are contrary to the true and fair view requirement of the law (para 10.1 and 11.1). These being: marking up to model profit taking and marking up to market; not accounting for likely losses; not dealing with the distributability of profits (i.e. whether they are realised or not and whether expected losses have been accounted for properly).

"In his opinion these defective accounting outcomes of IFRS should be overridden by invoking the overriding true and fair view requirement of the law."

The opinion also stated Bompas "cannot reach the same conclusions as the legal advice obtained by the FRC", adding "directors may in fact not be able to rely on it in discharging their statutory obligations".

LAPFF has called for a full review of how existing standards were adopted, whether financial reporting requires structural reform and the role of accounting firms in setting standards and signing off "faulty accounts".

LAPFF chairman Councillor Kieran Quinn said: "Over the past two years LAPFF has repeatedly made clear its view that the IFRS framework is legally faulty. The FRC has consistently denied that. However, this opinion suggests that something has indeed gone very badly wrong in the standard setting process, leading to the conclusion that IFRS should be overridden.

"These are extremely significant issues, given that they directly affect the accounting practices of systemically important financial institutions, and in turn affect the decisions made by those institutions, including the legitimacy of dividends paid since 2005. This also suggests that the accounts used for banks' rights issues were in fact defective."