

## Legal Status of Accounting Standards – comparative studies (5)

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### Chapter 6 Netherlands

#### 8 The trend of court decisions since 1985

##### (1) The trend of court decisions in the late 20th century

While the Companies and Business Court issued 10 judgments in 1985–1990, published court decisions of the Companies and Business Court were sharply declined in number later (*See* Heijnen [1996] p.31). No decisions in this period referred explicitly to the Guideline of the Annual Reporting Council (*See also* Heijnen [1996] p.43, noot 24). *Schoonderbeek* observed, however, that the Companies and Business Court had taken the Guideline into consideration and often followed them in spite that it did not have to (*Schoonderbeek* [1992] p.77).

##### (2) The trend of court decisions in the 21st century

In recent several cases, the Companies and Business Court and the Supreme Court tend to recognize the authority of the Guideline of the Annual Reporting Council to a certain degree.

### 1) Interlocutory decision in *KPN/SOBI* case

In the interlocutory decision<sup>1</sup> in *KPN/SOBI*<sup>2</sup> case<sup>3</sup>, the Companies and Business Court accepted the authority of the Guideline of the Annual Reporting Council in regard to which accounting method KPN should have applied in the light of paragraph 4 of Article 2:387 of the Civil Code, which requires a company to reflect permanent depreciation in measuring fixed assets. In other words, it held that “the Guideline can be deemed as a recommendation (aanbevelingen) in which the formed social attitudes (maatschappelijke opvattingen) to the recent developments in legal regulation are embodied” and relied upon the Guideline of the Annual Reporting Council to a considerable degree in finding a law in the light of the norm acceptable in the economic and social climate (maatschappelijk verkeer) in the meaning of Article 2:362, paragraph 1 of the Civil Code<sup>4</sup>.

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1 OK 7 november 2002, *JOR* 2003, 6. The final judgment of the Companies and Business Court ordered *KPN* to provide supplementary information (OK 8 juli 2004, *JOR* 2004, 233).

2 The Dutch Foundation for the Investigation of Corporate Reporting (Stichting Onderzoek Bedrijfs-Informatie, SOBI) was the plaintiff in most cases brought before the Companies and Business Court (For earlier cases in which the *SOBI* was the plaintiff, see e.g. Klaassen [1980] pp.333–337). The *SOBI* was established by *Pieter T. Lakeman* in 1976. According to *Slagter*, after rendering its first decision in 1977, the Companies and Business Court had decided 45 cases relating to financial reporting by 1991, in 21 of which the *SOBI* was the plaintiff (*Slagter* [1996] p.19). In almost 30 years, about 60 cases on financial reporting were brought to the Court, the *SOBI* filed complaint or intervened in 25 cases or so, according to *van der Zanden* (*van der Zanden* [2004] p.171). It is pointed out that one of the reason why there had been few other plaintiffs in this kind of cases is that it is not easy for the Advocate General (As far as it is known, the Advocate General had filed only 2 cases: *NJ* 1990, 176 *Nedlloyd* (OK); *NJ* 1991, 62 *Nedlloyd* (HR); OK 26 oktober 1989 *Sanders*) to demonstrate that the case is related to public interest (*Slagter* [1996] p.30). In *Nedlloyd* case, the Supreme Court interpreted (*NJ* 1991, 62) “public interest (openbaar belang)” so narrowly as “specific public interest (specifiek openbaar belang)” (*cf. Maeijer*[2000] nr. 524), which limits the room for the Advocate General to be the plaintiff (*van der Zanden* [2004a] pp.166 and 172). It is noted as well that the cost and the long period of time (it sometimes took 4 year to be rendered a court decision) are the bottleneck for other class of persons (*Bollen and Lin-van Nuffel* [1997] p.65).

3 In this case, the *SOBI* argued that the accounting treatments of *KPN* were contrary to laws and regulations. Contested accounting treatments were as follows: Recognition of gains on sale when *KPN Mobile*, a subsidiary of *KPN*, issued the shares, which amounted to 15% of the outstanding shares, to *NTT DoCoMo*; Recognition of goodwill when *KPN* gave *BellSouth* rights to convert interests in *E-Plus* which *BellSouth* had into shares of *KPN* or *KPN Mobile* and *KPN*'s stock acquisition rights after *KPN*, *KPN Mobile* and *BellSouth* had formed a joint venture and purchased approximately 77.5% of the issued capital of *E-Plus* in Germany; and valuation of the license for UMTS (Third generation (3G) mobile communication system in Europe) in Germany and the Netherlands.

4 “The annual accounts, prepared in accordance with generally acceptable accounting principles, shall provide such an insight as enables a sound judgment to be formed on the assets and liabilities

*Koelemeijer* regarded this judgment of the Companies and Business Court as going a step ahead of the Bill amending Book 2 of the Civil Code concerning the use of the International Accounting Standards (28 220) that was then under discussion at the Second Chamber, which proposed to require entities to state in their annual accounts whether the accounts have been prepared in accordance with the Guideline of the Annual Reporting Council (*see supra* 7) (*Koelemeijer* [2004] p. 269).

## 2) *SOBI/Reed-Elsevier* case

The Companies and Business Court made it clear that it stands in line with the same doctrine in *SOBI/Reed-Elsevier*<sup>5</sup> as in *KPN/SOBI*. The issues in the *SOBI/Reed-Elsevier* case were which valuation standards *Reed Elsevier* should have chosen in preparing its annual accounts and what kind of information on distributable amounts should have been disclosed in its annual report<sup>6</sup>.

The Companies and Business Court held as well in the latter case that “the Guideline is important as an authoritative source — for explanation (uitleg) of these provisions [Civil Code, Book 2, Article 386—*added*]—of considered norms (beschouwen normen) acceptable in the economic and social climate”. It noted, however, that it should be considered case by case whether significance should be acknowledged only to the Guideline of the Annual Reporting Council as the explanation of certain law or regulation and to what extent.

*Hoogendoorn* argued that through this judgment “the Guideline get some degree of legal footing. While deviation is still allowed, it has become difficult to justify the deviation” (*Hoogendoorn* [2004] p. 6. *See also* *Schoonderbeek* [2004] p.425).

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and results of the legal person and, insofar as the nature of annual accounts permit, of its solvency and liquidity. If so justified by the international structure of its group, the legal person may prepare its annual accounts in accordance with generally accepted accounting principles in one of the Member State of the European Communities that provide the insight referred to in the first sentence.”

<sup>5</sup> OK 20 november 2003, *JOR* 2004, 10.

<sup>6</sup> Specifically, *SOBI* questioned the accounting for depreciation of intangible assets and goodwill: amortization expense should not be recorded in an income statement in connection with the acquisition of *Harcourt General* in 2001; the revision of the estimated lifetime of several intangible assets and goodwill, which *Reed Elsevier* had, from 20 years to 40 years was explained poorly and improperly, and the change in accounting policy that required retroactive adjustment of the net assets of the prior years was presented poorly and properly; and disclosure of the amounts available for dividends in the part of financial review of the annual report was inappropriate.

### 3) The 2006 Supreme Court decision

#### a. The summary of the 2006 decision of the Supreme Court

On February 10, 2006, the Supreme Court ruled for *KPN/SOBI* case<sup>7</sup>. This decision of the Supreme Court and the above-mentioned rulings by the Companies and Business Court can be regarded as having great significance as an recognition of the significance of the Guideline for Annual Reporting in the preparation of annual accounts. The Supreme Court found the Guideline for Annual Reporting important in deciding the norms acceptable in the economic and social climate and noted that “in considering what may be acceptable in specific cases, the Guideline is an important orientation point (oriëntatiepunt) and a prestigious source of knowledge (kenbron)”. Moreover, it noted that applying the Guideline is an important indication (aanwijzing) that the annual accounts give the insight required by the law and the choice of valuation standards for certain items does not exceed the range that has been left in a rational manner to the corporation (rov. 5.5)<sup>8</sup>.

#### b. The opinion of the Dupty Advocate General

While this judgment is in line with the opinion of *Timmerman*, Dupty Advocate General, in regard with the legal significance of the Guideline (rov. 6.10), the opinion of *Timmerman*<sup>9</sup> was as follows:

According to the statement of Minister *Polak* in the Explanatory Memorandum (*cf. supra* 3 (2)), it can be understood that the Legislators had consciously left to the practice the implementation of “the norm considered to be acceptable in economic and social climate” in the meaning of Article 2:362, paragraph 1 of the Civil Code. Especially, the Guideline for Annual Reporting have been formulated by the bodies of employers and employees, the SER, the NivRA and Netherlands Order of Accountants and Accounting Consultants (Nederlandse Orde van *Accountants*-Administratieconsulenten, NOvAA) along the intention shown in the expectations by Minister *Polak*.

In the light of the history of debates in Parliament and the broad range of hearing in the process of developing the Guideline for Annual Reporting, the Guideline might become a

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7 HR 10 februari 2006, *NJ* 2006, 241.

8 The Supreme Court reversed, however, original decisions (interlocutory decision and final judgment of the Companies and Business Court) and remanded to the Companies and Business Court.

9 Conclusie, Rolnr. C04/305HR, 7 oktober 2005.

replica (weergave) of “the norm which is considered to be acceptable in economic and social climate” in the meaning of Article 2:362, paragraph 1 of the Civil Code, to considerable degree. Though the Guideline has neither binding power nor legal effects, the Guideline for Annual Reporting might be the framework of a useful examination for the Companies and Business Court in any cases, in the light of the development of the law as described above. The Companies and Business Court remarked that the Guideline for Annual Reporting should be regarded as a recommendation in which the social ideas that have been developed on the recent development of the discipline of laws and regulations are represented. Accordingly, the Guideline has been considered by experts to indicate a system for reporting that might be socially acceptable and is an authoritative source of knowledge on norms acceptable in the economic and social climate (rov. 3.3).

Nonetheless, in light of the history of the law, whether or not the majority in the social climate consider that it has become a norm is not a question in regard with accounting regulation but what is the socially acceptable method of financial reporting in specific cases is<sup>10</sup>. Depending on the circumstance, deviations from the Guideline is considered mandatory as a matter of course in the similar way as deviations from the law is necessary in order to provide the insight required in Article 2:362, paragraph 1 of the Civil Code.

The Companies and Business Court is of the view that the Guideline should be applied with care. It should be judged on a case-by-case basis in the light of the characteristics of the problem whether to grant any provision of the Guideline significance in the application of the provisions of laws and to what extent<sup>11</sup>. Accordingly, here comes in the bundle “Guidelines for Annual Reporting” contains guidelines with a positive character (stellig karakter), with the character of a recommendation and draft guidelines in which proposals under discussion are included (rov. 3.4).

Furthermore, *Timmerman* argued that the Guideline of the Annual Reporting Council is also one that can provide a useful starting point in determining the adequacy of the judgments of the Companies and Business Court, while agreeing with *Maeijer’s* view<sup>12</sup> on

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10 Tweede Kamer, 1982–1983, 16 326, nr. 13, p. 2.

11 OK 20 november 2003, *JOR* 2004, 10.

12 Maeijer [2000] nr. 417 (blz. 603) (The original <accessible at: <http://www.rechtspraak.nl>> referred to Asser-Maeijer 2-II, which might be a typo and Asser-Maeijer 2-III is the correct citation). *For details, see infra* 9(4).

the significance of the Guideline of the Annual Reporting Council. He noted that “as *Maeijer* had said,” the Companies and Business Court should indicate clearly which subordinate norm they have adopted as the basis for the decision on preparing annual accounts, and, the reason why they have considered that the norm is acceptable in economic and social climate. It is expected that this would make the decisions of the Companies and Business Court clear and controllable enough for the use by interested parties and give the basis for adequate decision. This is the case because accounting regulations is developed by professionals – though disagreement among the latter has been often observed – and is related to matters quite technical.

In addition, *Timmerman* noted as follows: One of the difficult problems inherent in accounting regulations is, as revealed in this proceeding, such a complex and technical issue that disagreement of views often exists among experts. A legal norm - this is true for any fundamental norms prescribed in Article 2:362, paragraph 1 of the Civil Code in all cases - is often ambiguous and, accordingly, it is possible that two or more ways for presenting a certain relationship that provide sufficient insight in the annual accounts, are socially acceptable, and are in accordance with the law. From this point of view, for example, it may be important how certain items should be presented in the annual accounts. The terminology adopted by the Legislators is in this direction.

According to *Timmerman*, the expression, “socially acceptable (*maatschappelijk aanvaardbaar*)” implies that a margin of judgment is left to enterprises to a certain extent and the term “acceptable (*aanvaardbaar*)” implies the room for somewhat more options compared to the term “accepted (*aanvaard*)”. Referring to the statement on Article 2 of the Annual Accounts Bill in the Explanatory Memorandum to the Bill, which noted that the purpose of annual accounts is to “provide such an insight as enables a sound judgment to be formed on the assets and liabilities, he argued as follows: Accordingly, not only numerical information in the annual accounts should provide a considerable insight of real situations, but also the information must be classified so as to be relevant and clear, not to mislead. They must lead to “well-founded (*verantwoord*) – that is, based on sufficient evidence, the entity’s financial position must be clearly presented as a whole, though detailed information

in all respects is not required - judgment."<sup>13</sup> He wrote that this does not relate to ideal or maximum insight since "it is sufficient that an insight is given sufficient enough to secure sound judgments. While the Companies and Business Court, in the light of this background, may well indicate a specific way of presentation (of course, they are not obvious for all cases), I believe that the Court has to suggest two or more possible methods of presentation considered as socially acceptable, and thus admissible, leaving companies the room for choice on this point to certain degree" (rov. 3.9).

## 9 Recent trend of academic doctrines

It is pointed out that it is the predominant view that the Guideline of the Annual Reporting Council has no formal status (Klaassen en Zevenboom [1997] pp. 12 en 27) and no binding power while it has a key influence on the practice of preparing annual accounts (Koelemeijer [2004] p.268). The leading reason for this view is that it is possible to establish any binding rules solely under democratic control but the Annual Reporting Council is not a governmental organization. Therefore, most of the academics are critical of the aforementioned decisions of the Companies and Business Court.

### (1) Beckman

*Beckman* insisted that the Guideline of the Annual Reporting Council lacked the motive to select and contained statements contrary to the law (Beckman[2001] p. 51)<sup>14</sup>. Moreover, *Beckman* adopted a critical stance to the Bill 28 220 (*see supra* 7), which proposed to require entities to state whether their annual accounts have been prepared in accordance with the Guideline for Annual Reporting issued by the Annual Reporting Council. He argued that the reference to the Guideline of the Annual Reporting Council might give an impression that the Guideline has quasi-public status while it is impossible to find good

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<sup>13</sup> *Memorie van Toelichting*, Tweede Kamer, 9595, 1967–1968, nr. 3, p. 12.

<sup>14</sup> In fact, the Guideline stipulated, for example, that negative goodwill should be depreciated and the depreciation should be reflected in the calculation of profits/losses in order to incorporate the International Accounting Standards into the Guideline while Article 2:389, paragraph 5 of the Civil Code provided that negative goodwill should be accounted as non-distributable reserve (Richtlijnen 500, 233–236).

reasons to deem that the Annual Reporting Council is delegated because the Annual Reporting Council is neither subject to democratic control nor under the control or the influence of the government and the composition of the Annual Reporting Council is not considered as optimal. He noted further that the Annual Reporting Council had assumed a duty to implement the International Accounting Standards, which have been developed by a foreign private body that is not under democratic control, to the Guideline as much as possible. In his opinion, accepting the authority of the Guideline is limiting the interpretation of Dutch laws voluntarily and the idea that people must follow the Guideline is not acceptable. Furthermore, he noted that the Guideline had provisions on the accounting treatment of negative goodwill and the measurement at market values, which were in direct contravention of the statutes and the EC directives<sup>15</sup>.

## (2) van der Zanden

Like *Beckman, van der Zanden* deemed the Companies and Business Court gave, in the interlocutory decision in *KPN/SOBI*, excessive (uncontrolled) authority to the Annual Reporting Council, a non-governmental organization (Van der Zanden [2003a] p. 103; Van der Zanden [2003b] p.6). Moreover, he argues that it is not desirable that the decisions of the Companies and Business Court give an impression that the significance beyond recommendations (*aanbevelingen*) has been granted to the Guideline. In conclusion, he insisted that it is impossible to recognize that the Guideline for Annual Reporting has the same weight as statutes given the lack of the control by the Parliament (Van der Zanden [2004b] pp.52-54).

## (3) Krol

*Krol* is of the view that the Guideline of the Annual Reporting Council does not have the binding power universally. He does not, however, find it surprising that the Guideline has been complied with in practice because the Guideline contains norms deemed as acceptable in the economic and social climate in the light of the composition and foundation

<sup>15</sup> *Beckman* took a slightly different position, however, that the Guideline might have binding power after enlarging the economic and social foundation of the Guideline and exploring the Guideline so that the Guideline should gain legitimacy (*Beckman* [1997] p.183, noot 223). *See also Beckman* [1995] pp.147-148.

(draagvlak) of the Annual Reporting Council as well as the setting procedures and quality of the Guideline. Nonetheless, he noted that this does not imply that the Guideline has a legal binding power in the meaning that any deviation from the Guideline is not allowed in regard with the insight legally required (Krol [2004] p.144).

#### (4) Maeijer

*Maeijer* remarks as follows: “In inducing these (subordinate) norms and rules,……the Observations and the Guidelines of the Annual Reporting Council are quite important. These Guidelines have no binding power and cannot surpass the laws to be interpreted. It may well be said that the Guideline is organized so that it becomes a subordinate norm (subnorm) applied and legitimate related to, and is converted to a fundamental norm that has been formulated in the law itself after all……. I am of the opinion that subordinate norms and general rules (vuistregels) contained in the judgment of the Companies and Business Court should be brought to the surface as far as possible so that opinions would be inspired in this respect, looking at the development of laws. This is possible even in cases where a substantive legal petition, in which the cause of action is predicated on subordinate norms and general rules, or any inspiring petitions would be brought before the court. The Supreme Court is able to exert desirable control over further development of laws. I believe that the Supreme Court should not limit itself simply and too early to the problem whether or not the pronouncements show signs of wrong views on laws because there is a close interaction between the rule of law and fact in an expert-participation system (in which a judgment is highly interwoven with the evaluation by experts on the situation of the case) (*Maeijer* [2000] nr. 417 (p. 603)).

Meanwhile, *Maeijer* basically expresses support for the decision of the Supreme Court in *KPN/SOBI* (*Maeijer* [2006]).

#### (5) Hoogendoorn

*Hoogendoorn* noted that “for the time being, the formal status of the Guideline is limited. This creates the possibility for deviation from Guideline without well-supported reasons, which is not apparent from the annual accounts. Legal foothold (verankering) is required in this regard”. He pointed out that “SMEs that do not apply the International

Financial Reporting Standards will be requested to comply with the Guideline” (Hoogendoorn [2001] p. 153).

(6) van Garderen

*van Garderen*, citing the view of *IJsselmuiden*, argued that it is the responsibility of auditing accountants to review whether annual accounts have been prepared in accordance with laws (and, at the same time, the Professional Conduct Rules [GBR] on the Guideline of the Annual Reporting Council) and, if necessary, to point out, in their audit opinion, in what aspect the annual accounts are considered as contrary to laws. Moreover, he noted that laws have provisions only on the major issues, undetermined standards govern other issues, no consensus exist among experts in financial reporting on several fundamental problems that laws give scant starting point, and the Guideline has no binding power. He concluded that auditing accountants should consider carefully before they reject a method of preparing annual reporting in cases where there might be several possible methods (*van Garderen* [2000] pp.81-82).

(7) Vergoossen

*Vergoossen* took the position that, in its current form, it is not possible to recognize the legal effect to the Guideline of the Annual Reporting Council. He insisted that we should not regard the Guideline as mandatory as statutes because the Annual Reporting Council tends to come to a compromise because of its composition and its way to work. The Council is comprised of the representatives of three parties and seeks for consensus in deliberation (*Camfferman en De With* [1996] is of the similar view).

(8) Preliminary conclusion

Judging from the discussions above, it is widely accepted, as summarized in the court decisions, that any deviation from the Guideline requires a sound motive to make annual accounts provide an insight required by the law though the compliance to the Guideline is not mandatory<sup>16</sup>. There is a small but significant minority view to acknowledge more

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16 Hoogendoorn [1996] p.872. *Vergoossen* noted that it is the most appropriate to regard the Guideline as authoritative views of a group of influential private figures (*Vergoossen* [1992] p. 247).

positive significance in the Guideline.

On the other hand, some argue that “the Guideline [of the Annual Reporting Council] is not a law. Any entrepreneur that intends to report, deviating from the Guideline, has the freedom to do so within the scope of norms to be acceptable in the economic and social climate. The scope of such norms is wider, by definition, than the provisions of the Guideline”(Berk *et al.* [2005] p. 16).

## 10 The recent view of the NivRA

The NivRA noted, in a notice dated 9 February 2006 to the members (NivRA [2006a] sectie 2), that the Guideline does not have any binding power but enjoys vast authority. It pointed out in that document that this authority derives from the composition of the Annual Reporting Council and the careful procedures for drafting the Guideline to a considerable degree. It argued that the Guideline and, especially, the clear pronouncements in the Guideline take the same step with the insight of profit and loss as well as of financial position, which is required by law while it is the judges to decide, in the judgment for the litigation brought before, which norm is acceptable in regard with specific annual accounts in the economic and social climate (Civil Code, Article 2:362). This suggests that it is possible to deviate from any unequivocal pronouncements only with reasonable grounds and sound motive. The NivRA recited the reasonable grounds, in general terms, to deviate from a clear pronouncement: the Guideline limits the alternatives permitted by law; the accounting treatment meets the requirement to provide an insight (complying with the Guideline normally fulfils the duty to provide an insight required by a law, and, therefore, any deviation should be based on firm ground that the compliance with the Guideline would result in failure to provide a required insight in the concrete case); and the entity is not contrary to the Guideline in effect<sup>17</sup>.

Section 120 (Algemeen kader met betrekking tot accountantscontrole en aan controle verwante opdrachten) of the 2000 edition or the later editions of “The Guideline for Audits by Accountants (Richtlijnen voor de Accountantscontrole)” noted that “Dutch statutory

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17 NivRA [2006b] was of the same view.

annual accounts must be made in accordance with the basis for financial reporting generally accepted in the Netherlands in accordance with foundations (grondslagen) for financial reporting that are generally accepted in the Netherlands” (paragraph 3) and pointed out that the foundations have been formed by Book 2, Title 9 of the Civil Code and its legislative history, court decisions, pronouncements incorporated into the Guideline for Annual Reporting and so on. This statement explicitly recognizes the significance of the Guideline of the Annual Reporting Council<sup>18</sup>.

Meanwhile, according to *Schoonderbeek*, the NIVRA once considered to issue an *Audit Alert* in January 2001, with these amendments to “The Guideline for Audits by Accountants”. While the final draft of the *Audit Alert* stipulated that any deviation from the Guideline for Annual Reporting leads to a qualified opinion or an adverse opinion so long as the deviation impairs the insight that annual accounts should provide, the *Audit Alert* never be published (*Schoonderbeek* [2004] pp.422–423).

## 11 The position of the Dutch Central Bank

Section 5001 “Recommendation of the Dutch Central Bank concerning annual accounts of banks in the meaning in Article 415 of Book 2 of the Civil Code (Aanbevelingen van de Nederlandsche Bank betreffende de jaarrekening van banken als bedoeld in Artikel 415 Boek 2 BW)” in the Handbook on the Act on the Supervision of the Credit System 1992 (Handboek Wet toezicht kredietwezen 1992) (October 2002), issued by the Dutch Central Bank (De Nederlandsche Bank, DNB), pointed out that the Guideline for Annual Reporting of the Annual Reporting Council contains authoritative recommendations and pronouncements that are intended to contribute to the insight of the financial position as well as the profit and loss of banks, which is required by law. It was of the view that it is expected that deviation from authoritative pronouncements of the Annual Reporting Council

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18 “The Guideline for Audits by Accountants” has been published biannually and referred simply to the financial reporting principles generally accepted (in the Netherland) by the 1998 edition. In contrast to the former position, the foreword to the 2000 edition (ten geleide bij editie 2000) noted that it was decided to refer to the Guideline of the Annual Reporting Council (NIVRA [2000]p.5). There are findings that the accounting treatment of goodwill which is deviated from the Guideline had not lead to any qualifications in the audit opinion (e.g. Hau en Knoops [2003], Dieleman [2003]).

– though they have no legally binding power – by those who are obliged to prepare annual accounts is allowed only in cases where they have good grounds for the deviation.

In addition, the Dutch Central Bank noted that it is widely recognized that the Guideline is an authoritative source in judging the social acceptability of standards for preparation of annual accounts, including those of banks. It said that it would like to recommend banks to apply the Guideline in preparing their annual accounts as a fundamental principle in a nod to such significance of the Guideline.

Moreover, it required banks to prepare a balance sheet and an income statement for prudential regulatory purpose in accordance to the Guideline, based on the authority granted in Article 55 (equivalent provision to 3:72 of the Act on Financial Supervision [Wet op het financieel toezicht]) of the Act on the Supervision of the Credit System 1992 (Wet toezicht kredietwezen 1992) before the adoption of the IFRS.

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