Accounting Standards Board

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Stig Enevoldsen
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15 January 2009

Dear Stig

EFRAG's Draft Comment Letter (DCL) on the IASB's ED of proposed amendments to IFRIC 9 and IAS 39 'Embedded Derivatives'

Thank you for providing the Board with the opportunity to comment on your draft response to the International Accounting Standards Board's (IASB) exposure draft (ED) 'Embedded Derivatives'.

The Board has responded directly to the IASB and a copy of our letter is attached.

We broadly agree with the conclusions EFRAG has reached in its draft comment letter, although we are not as concerned as EFRAG appears to be on the scope of IFRIC 9 (paragraph 8 of the Appendix to the DCL). In our view, the scope seems clear, and there remains a prohibition on subsequent reassessment except in the (now) two circumstances outlined in paragraph 7.

The DCL asks a number of questions to constituents. The ASB's comments on these are set out in the Appendix to this letter.

Should you have any queries regarding our response please contact me, or Seema Jamil-O'Neill, Project Director, on +44 207 492 2422 or by email s.jamiloneill@frc-asb.org.uk.

Yours sincerely

Ian Mackintosh

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Responses to EFRAG's Questions to constituents

Paragraph 11 of the Appendix to the DCL

We note that the assessment as it is described in proposed paragraph 7A could be influenced by hindsight. Usually the concern when an accounting decision can be influenced by hindsight is the risk of accounts manipulation. Although we are not in favour of standards that are driven by anti-abuse thinking, in this case our evaluation is that such a risk is not significant anyway. If you are aware of situations where the use of hindsight in applying the requirements of proposed paragraph 7A might be a concern please let us know.

ASB response

The ASB is not aware of any situations where the use of hindsight in applying the requirements of proposed paragraph 7A might be a concern.

Paragraph 23 of the Appendix to the DCL

Exceptionally in this case EFRAG supports backdating the amendments proposed in this ED for reasons explained in the preceding paragraphs. However, if you are aware of situations where these amendments may cause significant implementation problems due to the backdating of the effective date, please let us know.

ASB response

The ASB is not aware of situations where these amendments may cause significant implementation problems due to the backdating of the effective date.

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International Accounting Standards Board
30 Cannon Street
London EC4M 6XH

15 January 2009

Dear Sirs

Exposure Draft of proposed amendments to IFRIC 9 and IAS 39 'Embedded Derivatives'

The ASB is responding to the Exposure Draft (ED) 'Embedded Derivatives'. The ASB's responses to the questions asked in the ED are set in an Appendix to this letter.

The ASB supports the proposed amendments to IFRIC 9 and IAS 39, subject to some suggested changes as set out in the Appendix.

Should you have any queries regarding our response please contact me or Seema Jamil-O'Neill, Project Director, on 020 7492 2422 or by email s.jamiloneill@frc-asb.org.uk.

Yours sincerely

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Appendix – Response to Invitation to Comment

Question 1

The exposure draft clarifies that an entity must assess whether an embedded derivative is required to be separated from a host contract when the entity reclassifies a hybrid (combined) financial asset out of the fair value through profit or loss category. Do you agree with that clarification? If not, why? What would you propose instead, and why?

ASB response

The ASB agrees with the clarification.

Question 2

The exposure draft requires the assessment to be made on the basis of the circumstances that existed when the entity first became a party to the contract. Do you agree with that proposal? If not, why? What would you propose instead, and why?

ASB response

The ASB agrees that the assessment should be made on the basis of the circumstances that existed when the entity first became a party to the contract.

That said, the ASB thinks that the proposed wording of paragraph 7A does not take into account the possibility that at some point in time after initial recognition and before reclassification out of the fair value through profit or loss category there was a change in the terms of the instrument that significantly affected its cash flows. The ASB has seen, and agrees with, a suggestion made by the European Financial Reporting Advisory Group (EFRAG) to amend the wording of paragraph 7A to clarify that, in such circumstances, the embedded derivative would need to be assessed based on the conditions at the date of the change in terms.

Question 3

The exposure draft proposes that if the fair value of an embedded derivative that would have to be separated cannot be reliably measured, the entire hybrid (combined) financial instrument must remain in the fair value through profit or loss category. Do you agree with that proposal? If not, why? What would you propose instead, and why?

ASB response

The ASB agrees with the proposal.

Questions 4 and 5

Do you agree with the proposed effective date? If not, why? What would you propose instead, and why?

Are the transition requirements appropriate? If not, why? What would you propose instead, and why?

ASB response

The ASB notes that the proposals in the ED have arisen as a consequence of the amendments to IAS 39 and IFRS 7 'Reclassification of Financial Assets' issued by the IASB in October 2008, and the clarification on the effective date issued in November 2008. The ASB thinks, therefore, that the effective date and transitional requirements should be drafted so as to have the effect that the clarifications in the ED will be applicable as of the earliest date on which such reclassifications become possible (ie 1 July 2008).