DUTCH ACCOUNTING STANDARDS BOARD (DASB)

RAAD VOOR DE JAARVERSLAGGEVING

Secretariat:
Antonio Vivaldistraat 2-8
Postbox 7984
1008 AD Amsterdam
The Netherlands

T +31 (0)20 301 03 91
F +31 (0)20 301 02 79
rj@rjnet.nl
www.rjnet.nl

EFRAG
Attn. EFRAG Technical Expert Group
35 Square de Meeûs
B-1000 Brussels
Belgique

Our ref : AdK
Date : Amsterdam, 20 November 2009
Direct dial : Tel.: (+31) 20 301 0391 / Fax: (+31) 20 301 0302
Re :Comment on your letter regarding the Exposure Draft Rate-regulated Activities

Dear members of the EFRAG Technical Expert Group,

The Dutch Accounting Standards Board (DASB) appreciates the opportunity to respond on your draft comment letter regarding the Exposure Draft Rate-regulated Activities ('ED').

We generally support the proposal in the exposure draft to recognise assets and liabilities from rate-regulated activities. Our main concern relates to the scope and the related underlying recognition criteria of the exposure draft, the nature of the assets/ liabilities and the measurement approach.
We refer to our comment letter to the IASB for these general comments, which is attached as appendix B of this letter.

EFRAG members have different views on whether the proposed definitions of regulatory assets and liabilities satisfy the definitions of the framework. Although we support recognition of the respective assets and liabilities as we believe that will provide a true and fair view, it is still unclear to us whether the criteria in the framework are met. For this question we also refer to our IASB comment letter in appendix B.

EFRAG is also divided on the scope of the ED. With reference to our comment to the IASB, we believe the scope should be wider to include other rate regulations that are economically similar and more commonly used in practice. To assess this we believe appropriate recognition criteria should be identified.

Our reply to the specific questions raised in your comment letter to the exposure draft are further described in appendix A of this letter.

Yours sincerely,

Hans de Munnik
Chairman Dutch Accounting Standards Board

Appendix A
Comment letter EFRAG regarding "Rate-Regulated activities"

DASB responses to the questions asked in the comment letter

Question to constituents – Does rate regulation create assets and liabilities as defined in the framework
As the paragraphs above show, EFRAG members are divided on whether rate-regulation creates assets and liabilities as defined by the Framework. We would therefore particularly welcome your views on the issue. Do you agree with the IASB that some forms of rate- regulated activities (operating within cost-of-service regulation) give rise to assets and liabilities under the existing Framework? If not what are your major concerns? And what view would you favour instead?

Answer DASB

We support recognition of the respective assets and liabilities as we believe that will provide a true and fair view. However it is still unclear to us whether the criteria in the framework are met. For this question we also refer to the main comments 1 and 2 in our IASB comment letter.

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Question to constituents -scope
45 We would particularly welcome your views on this issue. Do you think that there are other rate regulatory methodologies that could be addressed by the proposed IFRS? And if so, could you provide examples of these and explain why you think that they should be included in the scope of the proposed future IFRS?

Answer DASB

Examples of other regulatory methodologies are methodologies with features whereby not all specific costs are recoverable, such as price cap regulations or regulations with "efficiency factors". An example of the last one is regulation whereby the regulator trues up the tariffs to actual costs incurred but adjusts tariffs down-wards by a predetermined factor related to the reduction of allowable operating costs that it has determined to be achieved by the entity.

We believe that price cap or efficiency regulations incorporate a sufficient cause-and-effect relationship between the entity's specific costs and its revenues.

We believe that the limit on prices via a regulatory price cap should be taken into account when measuring the asset/liability, similar to paragraph 18 of the ED and should not be excluded from the scope.

Other regulations include the general principle that the rates can be determined by the company, directly or indirectly related to its costs. The regulator for example does not specifically set the rates, but reviews the rate setting by the entity. In substance the regulator determines the rate, based on a rate formula, without specific approval of the resulting rates.

The scope of the ED therefore should be expanded to all regulations where there is a sufficient cause-and-effect relationship between the entity's specific costs and its revenues, irrespective of the features that may impact the measurement of regulatory assets such as price caps and efficiency targets.

Question to constituents – measurement of regulatory assets and liabilities
71 Again we would welcome your views on this issue. Which of the above two views for the determination of the discount rate do you support and why do you think it is preferable?

Answer DASB

Regarding the measurement of the asset or liability, we are of the opinion that the IASB has not sufficiently clarified why the asset or liability is measured similar to a financial asset or financial liability.

Determining whether the measurement approach is appropriate first requires considering the nature of regulatory assets and liabilities, e.g. as intangible asset or as financial asset. The ED is silent as to the nature of regulatory assets and liabilities.

It seems that the Board believes that these assets and liabilities share the characteristics of financial assets and liabilities from the customers as a whole (customer base) in stead of individual relationship.

The Board has not made it clear why the model proposed is not a cost accumulation model.

Regarding the 2 views of applying the discount rate, we are of the opinion that the discount rate should be in line with other IFRSs (view 1).

Question to constituents – cost of self constructed property, plant and equipment or internally generated intangible assets
83 As the above paragraphs explain EFRAG has more than one view on this issue. We would welcome your views on this issue and in particular which of the views described above you prefer and why?

Answer DASB

We agree that the exemption may be justified based on cost-benefit and taken into account the relative size. However, this may result in different measurement bases for PP&E and other regulatory assets and liabilities, because the former will be based on cost accumulation plus imputed costs (eg interest costs and cost of equity funds), whereas the latter will be based on the present value of future expected cash flows. We question whether this is appropriate and recommend a consistent measurement for all assets.

We would be in favour of view 2, whereby the costs relating to rate regulated activites are disclosed as separate element of the non-current assets.

Question to constituents – disclosure requirements
97 What disclosures do you think could adequately address rate-regulated activities?

Answer DASB

We agree with the proposed disclosure in the ED.

However, paragraph 27 (a) should clarify that the impact of regulation reported as part of the cost of PP&E under the exemption granted in paragraph 16 should form part of the reconciliation required so that the overall impact of regulation can be assessed.

Additionally, we would recommend to specifically requiring entities to disclose the line item(s) in which the impact of regulation is included.

Appendix B
Comment letter IASB regarding "Rate-regulated activities"

DUTCH ACCOUNTING STANDARDS BOARD (DASB)

RAAD VOOR DE JAARVERSLAGGEVING

Secretariat:
Antonio Vivaldistraat 2-8
Postbox 7984
1008 AD Amsterdam
The Netherlands

T +31 (0)20 301 03 91
F +31 (0)20 301 02 79
rj@rjnet.nl
www.rjnet.nl

International
Accounting Standards Board
30 Cannon Street
London EC4M 6XH
United Kingdom

Our ref : AdK
Date : 20 November 2009
Direct dial : Tel.: (+31) 20 301 0391 / Fax: (+31) 20 301 0302
Re : Comment on the Exposure Draft "Rate-regulated Activities"

Dear members of the International Accounting Standards Board,

The Dutch Accounting Standards Board (DASB) appreciates the opportunity to comment on the exposure draft "Rate-regulated Activities".

We generally support the proposal in the exposure draft to recognise assets and liabilities from rate-regulated activities. Our main concern relates to the scope and the underlying recognition criteria of the exposure draft, the nature of the assets/ liabilities and the measurement approach.

1 Scope

The scope of the ED is very limited and does not include activities that in substance are similar to the activities in scope. Many industries are regulated and the respective regulations include for example features, such as price cap regulations or regulations with "efficiency factors". With these features not all specific costs are recoverable and therefore these regulations are not in the current scope. Other regulations include the general principle that the rates can be determined by the company, directly or indirectly related to its costs. The regulator for example does not specifically set the rates, but reviews the rate setting by the entity. In substance the regulator determines the rate, based on a rate formula, without specific approval of the resulting rates.

We believe that these regulations incorporate a sufficient cause-and-effect relationship between the entity's specific costs and its revenues similar to the activities that are in scope. The scope of ED should be expanded to all regulations where there is a sufficient cause-and-effect relationship between the entity's specific costs and its revenues, irrespective of the features that may impact the measurement of regulatory assets such as price caps and efficiency targets.

However, this can not only be addressed by widening the scope, but also requires that there is an understanding of the recognition criteria to be applied to assess whether and to what extent regulatory assets and liabilities should be recognized.

2 Recognition

The ED doesn't include specific recognition criteria, but effectively skips this assessment. The recognition of regulated assets/liabilities is a direct result from meeting the scope criteria. We believe that this approach has a number of important consequences:

- It is difficult to assess whether the regulatory assets and liabilities actually meet the framework criteria;
- If it is concluded that the specific criteria for asset and liability recognition in the framework would not be met, but the IASB believes that nevertheless these assets and liabilities should be recognized, it would be good to understand the rationale thereof. Additionally this may be a clear indicator that the framework would need to be amended;
- Based on this standard analogies may be made for other, very similar, situations; where it will be difficult to assess whether such analogy is appropriate or not;
- It is unclear whether a separate accounting standard is necessary; couldn't the same conclusions be drawn from the existing standards?
- This approach results in 'rule-based' accounting standards.

We are in favour of the principles-based approach that the specific asset/liability framework should always be conclusive. However the appropriate accounting should be based on providing a true and fair view of not only the related assets and liabilities, but also from a performance reporting (income statement) perspective. It would be very helpful to have an understanding of the arguments used.

We do not believe that the IASB should apply such 'rule-based' approach and would be much more in favour of an analysis on this type of activities based on the existing standards (i.e. through IFRIC); and if necessary amend those existing standards instead of issuing a completely separate standard.

If a separate standard will be issued, we believe that the scope should be wider than currently proposed. Recognition criteria to assess whether a regulatory asset or liability exists are in that situation definitely necessary.

3 Nature

The ED is silent as to the nature of regulatory assets and liabilities. It seems that the Board believes that these assets and liabilities share the characteristics of financial assets and liabilities. The Board has not made clear why the model proposed is not a cost accumulation model. The view on the nature of the asset would also impact the resulting measurement approach.

4 Measurement

We do not support a probability-weighted approach for the measurement of the asset or liability, because we believe that such an approach imposes additional burden on preparers without producing information that is more relevant. In our view the entity should base the measurement on management's best estimate of the amount expected to be recovered.

Our reply to the specific questions raised in the exposure draft are further described in appendix A of this letter.

Yours sincerely,

Hans de Munnik
Chairman Dutch Accounting Standards Board