Deutsches Rechnungslegungs Standards Committee e.V.
Accounting Standards Committee of Germany
IFRS-Fachausschuss®

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EFRAG
Françoise Flores
Chairman EFRAG TEG
35 Square Meeûs

B-1000 Brussels

Berlin, 5 September 2013

Dear Françoise,

ED/2013/5 Regulatory Deferral Accounts

On behalf of the Accounting Standards Committee of Germany (ASCG), I am writing to comment on the IASB Exposure Draft ED/2013/5 *Regulatory Deferral Accounts*. We appreciate the opportunity to respond to the Exposure Draft.

The ASCG's IFRS Committee agrees with EFRAG not supporting the ED regarding a mandatory application but is supportive of the IASB's view to make the standard an option to limit comparability issues.

The ASCG's IFRS Committee acknowledges the IASB's initiative in seeking an interim solution for deferral rate regulation accounting that has caused significant concern in many jurisdictions and that is currently the cause of delays in adoption of IFRSs – resulting in diversity between financial statements of entities in different, or even the same, jurisdiction.

Considering its narrow scope (with regard to the nature and extent of rate regulated activities covered by the ED) the IFRS Committee accepts the interim solution proposed in the ED as a means of facilitating global adoption of IFRSs.

For our reasons and further details of our views, please see our attached comment letter to the IASB. In the appendix to this letter we comment on some aspects of EFRAG's draft comment letter.

If you would like to discuss our comments further, please do not hesitate to contact me.

Liesel Knorr
President

EFRAG's General Comments

EFRAG lists a number of cross-cutting measurement and presentation issues.

While the IFRS-Committee agrees with the need for further guidance on the application of IFRS 3 (if an interim Standard based on the ED is finalised), it does not support issuing specific guidance in the context of IFRS 9 (hedges of foreign net investments that recognise regulatory deferral account balances), IAS 12 (allocating the tax base between the part relating to IFRS compliant assets and liabilities and the part relating to regulatory deferral account balances), IAS 28 (separating / not separating impacts of recognised regulatory deferral account balances), IAS 36 (double-counting when assessing cash flows for each CGU; allocation of impairment losses).

Equally, the IFRS-Committee does not agree with the call for further guidance in IFRS 10 (separate presentation of regulatory deferral account balances allocated to NCIs), IAS 1 (the presentation of changes in regulatory deferral account balances solely in profit or loss is deemed appropriate; presentation of equity; illustrative example amounts recognised in accordance with other standards), and IAS 8 (changes in estimates and errors).

However, the IFRS Committee agrees with requiring the separation of movements in regulatory deferral account balances in the Statement of Cash Flows.

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Hans Hoogervorst
Chairman of the
International Accounting Standards Board
30 Cannon Street
London EC4M 6XH

United Kingdom

Berlin, 5 September 2013

Dear Hans,

ED/2013/5 Regulatory Deferral Accounts

On behalf of the Accounting Standards Committee of Germany (ASCG), I am writing to comment on the IASB Exposure Draft ED/2013/5 *Regulatory Deferral Accounts*. We appreciate the opportunity to respond to the Exposure Draft.

The ASCG's IFRS Committee acknowledges the IASB's initiative in seeking an interim solution for deferral rate regulation accounting that has caused significant concern in many jurisdictions and that is currently the cause of delays in adoption of IFRSs – resulting in diversity between financial statements of entities in different, or even the same, jurisdiction.

Considering its narrow scope (with regard to the nature and extent of rate regulated activities covered by the ED) the IFRS Committee accepts the interim solution proposed in the ED as a means of facilitating global adoption of IFRSs, subject to:

- the IASB committing to pursuing the completion of its comprehensive project on rate-regulation as a matter of priority and within a set timeframe; and
- the assurance included in paragraph BC21 of the Basis for Conclusions of the exposure draft that any interim Standard does not anticipate the conclusions of that comprehensive project, which will take account of the definitions of assets and liabilities developed in the 'Elements of financial statements' phase of the Board's Conceptual Framework project as well as the overall definition and scope criteria for rate regulated activities.

Please find our detailed responses to the questions raised in the invitation to comment in the appendix to this letter. If you would like to discuss our comments further, please do not hesitate to contact me.

Liesel Knorr
President

Scope

Question 1

The Exposure Draft proposes to restrict the scope to those first-time adopters of IFRS that recognised regulatory deferral account balances in their financial statements in accordance with their previous GAAP.
Is the scope restriction appropriate? Why or why not?

The IFRS Committee agrees with the proposal to limit the scope of the interim Standard to first-time adopters of IFRSs as a means in the short term of limiting the diversity of practice that would be a result of the proposals in the exposure draft pending completion of the Board's comprehensive project on rate-regulation.

Application of the interim Standard only by first-time adopters would likely result in consistent practice (albeit, practice differing from other jurisdictions) within jurisdictions that have yet to apply IFRSs, whilst application by existing IFRS reporters would introduce diversity of practice within jurisdictions that have already applied IFRSs.

Our understanding is based on the assumption that the two criteria that must be met for regulatory deferral accounts to be within the scope of the ED lead to a narrow scope limitation with regard to the nature and extent of rate regulated activities covered by the ED.

However the ASCG's IFRS Committee would like to point out the following opportunities the IASB has to deal with in the comprehensive project:

- The IASB has yet to gain an understanding of existing regimes of rate regulation and their impact on financial reporting; the replies to the request for information in the comprehensive project evidence the wide ranging spectrum of regimes. Permitting the continued use of previous GAAP should only be done when an understanding of previous GAAP and its dynamics has been achieved.
- The statement in BC 16 that accounting policies developed are based on US GAAP or local GAAP does not do justice to the range of rate regulation regimes existing worldwide; similar guidance seems to be provided in the limited range of very similar regulatory regimes.
- Issuing an interim Standard might reduce the risk of 'carve-ins' and 'carve-outs', but does so by postponing the potentially necessary acceptance of a solution other than current local GAAP. The life-span of interim solutions IFRS 4 and IFRS 6 and the lack of any sunset clause in the ED do not foster expectation for a truly interim solution.
- While supporting easing the adoption of IFRS, the IFRS Committee notes that the IASB is creating uncertainty for potential future adopters of IFRS by setting a precedent at the time of starting new major projects.

As noted in our response to Question 4 below, the IFRS Committee also agrees that the option to recognise regulatory deferral account balances should be limited to entities that recognised such balances in accordance with their previous GAAP.

Question 2

The Exposure Draft proposes two criteria that must be met for regulatory deferral accounts to be within the scope of the proposed interim Standard. These criteria require that:

(a) an authorised body (the rate regulator) restricts the price that the entity can charge its customers for the goods or services that the entity provides, and that price binds the customers; and

(b) the price established by regulation (the rate) is designed to recover the entity's allowable costs of providing the regulated goods or services (see paragraphs 7-8 and BC33-BC34).

Are the scope criteria for regulatory deferral accounts appropriate? Why or why not?

If an interim Standard is finalised on the basis of the ED, the IFRS Committee agrees with the scope criterion that price must be restricted by an authorised body for the reasons set out in paragraph BC33 of the Basis for Conclusions of the exposure draft. Without an external authority to impose a price that can be charged a calculation of the 'permitted' price is unlikely to be reliable.

We not that the scope of the ED regarding pricing mechanism is further narrowed in the following ways:

- Binding price for the customer
- No rate-setting mechanism with rates based on targeted or assumed costs (i.e. industry averages without a link to the actual costs of the entity)

We assume that it was the IASB's intention to narrow the scope of the proposed standard for its interim period to virtually certain and highly realiably measurable deferral accounts.

However, it is currently unclear what is meant by the requirement that the price 'binds the customers'. Rate-regulation will sometimes impose a maximum price that can be charged to customers, with the entity permitted to charge a lower price if it so wishes; in these circumstances it could be argued that the customer is indirectly bound by the regulated price or bound by the price the entity chooses to charge (which is likely to be the regulated price). The IASB should clarify the circumstances in which a regime is intended to be excluded from the scope of the interim Standard by this criterion or it should be removed.

Anyhow the IFRS Committee is aware that there are various rate regulation environment not covered by the actual criteria of para 7 of the ED. Therefore we would expect a further redeliberation of the definition of rate regulated activities as part of the comprehensive project.

Question 3

The Exposure Draft proposes that if an entity is eligible to adopt the [draft] interim Standard it is permitted, but not required, to apply it. If an eligible entity chooses to apply it, the entity must apply the requirements to all of the rate-regulated activities and resulting regulatory deferral account balances within the scope. If an eligible entity chooses not to adopt the [draft] interim Standard, it would derecognise any regulatory deferral account balances that would not be permitted to be recognised in accordance with other Standards and the *Conceptual Framework* (see paragraphs 6, BC11 and BC49).
Do you agree that adoption of the [draft] interim Standard should be optional for entities within its scope? If not, why not?

If an interim Standard is finalised on the basis of the ED, the IFRS Committee agrees with the adoption of the interim Standard being optional as we do not deem it appropriate to impose requirements on first-time adopters that might be inconsistent with other entities in the same industry already applying IFRS.

Recognition, measurement and impairment

Question 4

The Exposure Draft proposes to permit an entity within its scope to continue to apply its previous GAAP accounting policies for the recognition, measurement and impairment of regulatory deferral account balances. An entity that has rate-regulated activities but does not, immediately prior to the application of this [draft] interim Standard, recognise regulatory deferral account balances shall not start to do so (see paragraphs 14-15 and BC47-BC48).
Do you agree that entities that currently do not recognise regulatory deferral account balances should not be permitted to start to do so? If not, why not?

If an interim Standard is finalised on the basis of the ED, the IFRS Committee agrees that it should only apply to those entities recognising regulatory deferral account balances immediately prior to the application of the Standard (i.e., at the date of transition to IFRSs) under their previous GAAP. IFRS 1 currently recognises the relevance of an entity's previous GAAP to a number of items (for example, derecognition of financial instruments and business combinations); we would be concerned by the introduction of an option to select a different national GAAP for accounting for rate-regulation without a thorough consideration of whether that should apply to other areas.

Question 5

The Exposure Draft proposes that, in the absence of any specific exemption or exception contained within the [draft] interim Standard, other Standards shall apply to regulatory deferral account balances in the same way as they apply to assets and liabilities that are recognised in accordance with other Standards (see paragraphs 16-17, Appendix B and paragraph BC51).
Is the approach to the general application of other Standards to the regulatory deferral account balances appropriate? Why or why not?

If an interim Standard is finalised on the basis of the ED, the IFRS Committee supports the general approach that other Standards apply to regulatory deferral account balances in the absence of of any specific exemption.
However, Appendix B of the ED should more extensively explain the interaction of the Standard with IFRS 3 *Business Combinations*. There are a number of possible circumstances in which such an interaction could arise:

- an entity already recognising regulatory deferral account balances acquires an entity that is subject to a rate-regulation regime that recognises regulatory deferral account balances under either the interim Standard or under its national GAAP;
- an entity already recognising regulatory deferral account balances acquires an entity that is subject to a rate-regulation regime that does not recognise regulatory deferral account balances under either IFRSs or under its national GAAP; and
- an entity that does not recognise regulatory deferral account balances (either because it does not apply the interim Standard, because its previous GAAP did not permit recognition of such balances or because it is not subject to rate-regulation) acquires an entity that is subject to a rate-regulation regime and does recognise regulatory deferral account balances.

The interim Standard should specify in each case whether regulatory deferral account balances relating to the acquiree should be recognised in the acquirer's consolidated financial statements. As a starting point, it would seem logical that the acquirer's accounting policy should also be applied in its accounting for an acquired business, but this would not cover the circumstance whereby an entity that is not subject to rate-regulation acquires an entity that recognises regulatory deferral account balances.

Presentation

Question 6 The Exposure Draft proposes that an entity should apply the requirements of all other Standards before applying the requirements of this [draft] interim Standard. In addition, the Exposure Draft proposes that the incremental amounts that are recognised as regulatory deferral account balances and movements in those balances should then be isolated by presenting them separately from the assets, liabilities, income and expenses that are recognised in accordance with other Standards (see paragraphs 6, 18-21 and BC55-BC62). Is this separate presentation approach appropriate? Why or why not?

If an interim Standard is finalised on the basis of the ED it is appropriate to apply the requirements of all other Standards before isolating regulatory deferral account balances and their movements.

Regarding the presentation approach the IFRS Committee would also appreciate a separation of movements in regulatory deferral account balances in the Statement of Cash Flows.

Disclosure

Question 7 The Exposure Draft proposes disclosure requirements to enable users of financial statements to understand the nature and financial effects of rate regulation on the entity's activities and to identify and explain the amounts of the regulatory deferral account balances that are recognised in the financial statements (see paragraphs 22-33 and BC65). Do the proposed disclosure requirements provide decision-useful information? Why or why not? Please identify any disclosure requirements that you think should be removed from, or added to the [interim] Standard.

If an interim Standard is finalised on the basis of the ED the disclosure requirements are deemed appropriate.

Question 8 The Exposure Draft explicitly refers to materiality and other factors that an entity should consider when deciding how to meet the proposed disclosure requirements (see paragraphs 22-24 and BC63-BC64). Is this approach appropriate? Why or why not?

The IFRS Committee does not agree with explicit reference to materiality in selected standards; materiality should be dealt with in general in a disclosure framework to be developed.

Transition

Question 9 The Exposure Draft does not propose any specific transition requirements because it will initially be applied at the same time as IFRS 1, which sets out the transition requirements and relief available. Is the transition approach appropriate? Why or why not?

If an interim Standard is finalised on the basis of the ED the transition proposals are appropriate.

Other comments

Question 10 Do you have any other comments on the proposals in the Exposure Draft?

If an interim Standard is finalised on the basis of the ED the IASB should consider integrating the requirements in IFRS 1 to consolidate all the requirements for first-time adopters in one document. This should not hinder the withdrawal once the comprehensive Standard is finalised.

If an interim Standard is finalised on the basis of the ED guidance should be provided on the presentation and disclosure requirements in interim financial statements in accordance with IAS 34. In particular, it should be made clear that separate line items for regulatory deferral account balances and movements therein should also be included in a condensed set of interim financial statements.