Deutsches Rechnungslegungs Standards Committee e.V.
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EFRAG
Françoise Flores
35 Square Meeûs

B-1000 Brussels

Berlin, 9 July 2010

Dear Françoise,

EFRAG's Draft Comment Letter on the Exposure Draft ED/2010/4 Fair Value Option for Financial Liabilities

On behalf of the German Accounting Standards Board (GASB), I am writing to comment on EFRAG's draft comment letter on the IASB on the Exposure Draft ED/2010/4 'Fair Value Option for Financial Liabilities. We appreciate the opportunity to comment on EFRAG's draft comment letter.

For our arguments, please see the appendix (comment letter to the IASB) attached to this letter.

If you would like to discuss any aspect of this comment letter in more detail, please do not hesitate to contact me.

Yours sincerely,

Liesel Knorr
President

Vorstandsausschuss:
Prof. Dr. Rolf Nonnenmacher (Schatzmeister), Dr. Werner Brandt, Joe Kaeser, Dr. Jörg Schneider

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Sir David Tweedie
Chairman of the
International Accounting Standards Board
30 Cannon Street
London EC4M 6XH
United Kingdom

Berlin, 9 July 2010

Dear David,

Exposure Draft ED/2010/4 Fair Value Option for Financial Liabilities

On behalf of the German Accounting Standards Board (GASB) I am writing to comment on the IASB Exposure Draft ED/2010/4 'Fair Value Option for Financial Liabilities' (herein referred to as 'ED'). We appreciate the opportunity to comment on the ED.

The GASB is concerned about the decision of the IASB to retain most of the requirements in IAS 39 for the accounting of financial liabilities. In light of the overall goal of a comprehensive review of financial instruments accounting and the intended replacement of IAS 39 with a new standard, this course of action is not convincing from a conceptual point of view. We would have preferred to align the requirements for financial liabilities with the main principles and criteria in IFRS 9. Furthermore, we do not share the IASB's point of view that the bifurcation methodology in IAS 39 is generally working well and that practice has developed since the Standard was issued. In this respect we refer to the arguments raised that led to the elimination of the bifurcation requirements in ED/2009/7 Classification and Measurement and in IFRS 9.

Apart from this general concern, we hold the view that changes in own credit risk should not be considered at subsequent measurement, except when the liability is a derivative or the management has the intent and the ability to settle the liability before maturity, thereby realising gains and losses from fair value changes. This intent and ability does not exist when the fair value option for financial liabilities is used, so that in these cases changes in the credit risk of the liability should not affect profit or loss, i.e. should not be recognised at all.

In our view, the proposal to present the portion of the fair value change that is attributable to changes in the liability's credit risk in other comprehensive income is not convincing from a conceptual point of view. Although we acknowledge the difficulties of the other possible approaches explored, we believe that the proposal represents only a second best solution.

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

Yours sincerely,

Liesel Knorr
President

Appendix – Answers to the questions of the exposure draft

Question 1

Do you agree that for all liabilities designated under the fair value option, changes in the credit risk of the liability should not affect profit or loss? If you disagree, why?

Question 2

Or alternatively, do you believe that changes in the credit risk of the liability should not affect profit or loss unless such treatment would create a mismatch in profit or loss (in which case, the entire fair value change would be required to be presented in profit or loss)? Why?

The GASB holds the view already expressed in its comment letter on the IASB Discussion Paper DP/2009/2 'Credit Risk in Liability Measurement' that changes in own credit risk should not be considered at subsequent measurement with the following two exceptions:

- The liability is a derivative instrument.
- Management has the intent and the ability to settle the liability with the counterparty to realise gains and losses from fair value changes before maturity ('early settlement').

If an entity designates a financial liability as at fair value through profit or loss, the early settlement intention often does not exist. Therefore, we agree that in these cases changes in the credit risk of the liability should not affect profit or loss, i.e. should not be recognised at all.

Question 3 Do you agree that the portion of the fair value change that is attributable to changes in the credit risk of the liability should be presented in other comprehensive income? If not, why?

In GASB's opinion the proposal to present the portion of the fair value change that is attributable to changes in the credit risk in the liability in other comprehensive income is not convincing from a conceptual point of view. Although we acknowledge the difficulties of the other possible approaches explored, we believe that the proposal represents only a second best solution.

Question 4 Do you agree that the two-step approach provides useful information to users of financial statements? If not, what would you propose instead and why? **Question 5** Do you believe that the one-step approach is preferable to the two-step approach? If so, why?

The GASB does not agree with a mandatory requirement how to present the fair value change on the face of the statement of comprehensive income. We are against adding more obligatory line items to this statement.

Question 6 Do you believe that the effects of changes in the credit risk of the liability should be presented in equity (rather than in other comprehensive income)? If so, why?

The GASB does not believe that the effects of changes in the credit risk of the liability should be presented in equity.

Question 7

Do you agree that gains or losses resulting from changes in a liability's credit risk included in other comprehensive income (or included in equity if you responded 'yes' to Question6) should not be reclassified to profit or loss? If not, why and in what circumstances should they be reclassified?

The GASB disagrees with the proposal that gains or losses resulting from changes in a liability's credit risk included in other comprehensive income should not be reclassified to profit or loss. We think that these gains or losses should be reclassified to profit or loss whenever they are realised through settling the liability before maturity.

Question 8

For the purposes of the proposals in this exposure draft, do you agree that the guidance in IFRS 7 should be used for determining the amount of the change in fair value that is attributable to changes in a liability's credit risk? If not, what would you propose instead and why?

As the proposals do not change the determination of the amount that is attributable to changes in a liability's credit risk as laid out in IFRS 7, it seems appropriate to keep the current guidance, generally speaking. However, we note that there seems to be a fair degree of diversity in practice regarding the application of this requirement. We therefore urge the IASB to clarify its terminology and define the terms credit risk and own credit risk to foster comparability of financial statements.

Question 9

Do you agree with the proposals related to early adoption? If not, what would you propose instead and why? How would those proposals address concerns about comparability?

The GASB generally agrees that a phased approach in replacing an accounting standard should not be used to cherry-pick selected parts for early adoption. However, if the IASB were to retain almost all of the current guidance in IAS 39 for financial liabilities, we fail to see why the proposals in this ED could not be early adopted without adopting IFRS 9 (in the current version) early. There is no direct link to the requirements in IFRS 9 which only relate to financial assets. Companies which do not use the fair value option for financial liabilities are not affected by the proposals in the ED. Hence, the argument of creating a significant period of incomparability does not seem valid in this respect.

Question 10

Do you agree with the proposed transition requirements? If not, what transition approach would you propose instead and why?

We agree with the proposed transition requirements.