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IFRS-FA – öffentliche Sitzungsunterlage

Sitzung:	**07. IFRS-FA / 27.07.2012 / 15:30 – 16:00 Uhr**
TOP:	**10 – Interpretationsentwürfe des IFRSIC**
Thema:	**DI/2012/2 - Put Options Written on Non-controlling Interests**
Papier:	**07_10a_IFRS-FA_NCIPuts_CL_IFRSIC**

Hintergrund

1 In seiner 6. Sitzung hat der FA den Entwurf des DI/2012/2 *Put Options Written on Non-controlling Interests* erstmals diskutiert und im Nachgang zur Sitzung einen ersten Entwurf der Stellungnahme an das IFRSIC durchgesehen.

2 Auf den folgenden Seiten wird der überarbeitete Entwurf der Stellungnahme an das IFRS IC wiedergegeben.

Frage an den IFRS-FA

Stimmen Sie diesem überarbeiteten Entwurf zu?

DRAFT

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Wayne Upton
Chairman of the
IFRS Interpretations Committee
30 Cannon Street
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E-Mail info@drsc.de

Berlin, 27 July 2012

Dear Wayne,

Exposure Draft DI/2012/2 *Put Options Written on Non-controlling Interests*

On behalf of the Accounting Standards Committee of Germany (ASCG) I am writing to comment on the IFRS Interpretations Committee Draft Interpretation DI/2012/2 'Put Options Written on Non-controlling Interests' (DI). We appreciate the opportunity to respond to the Draft Interpretation.

With respect to the scope of the DI we have detailed in the Appendix to this letter some issues we recommend to be scoped in. In general we noticed that the DI does not deal with broader questions directly related to the issue, while we are of the opinion that the DI should deal with all prevalent issues of the subject comprehensively.

We consider the consensus provided in DI/2012/2 to be derived appropriately from the IFRS the DI makes reference to taking all significant arguments into consideration. However, we are concerned with the outcome based on the underlying accounting and presentation in accordance with IAS 32.23 for written NCI puts, which we do not consider to appropriately present the substance and economic reality of such puts. On this basis we are in favour of excluding written NCI puts from the scope of IAS 32 (so that the requirements of IAS 39 and IFRS 9 for derivative contracts would apply). However, if our preferred solution (i.e. excluding written NCI puts from the scope of IAS 32) cannot be implemented in the short term, we alternatively would support proceeding with the solution presented in the DI in order to at least address divergent interpretations existing in practice. This line of argumentation has also been further detailed in the appendix to this letter.

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

Yours sincerely,

Liesel Knorr
President

Appendix

Question 1—Scope

The draft Interpretation would apply, in the parent's consolidated financial statements, to put options that oblige the parent to purchase shares of its subsidiary that are held by a non-controlling-interest shareholder for cash or another financial asset (NCI puts). However, the draft Interpretation would not apply to NCI puts that were accounted for as contingent consideration in accordance with IFRS 3 *Business Combinations* (2004) because IFRS 3 (2008) provides the relevant measurement requirements for those contracts.

Do you agree with the proposed scope? If not, what do you propose and why?

We consider the scope to having been determined too narrow and not specific enough to be free of doubt in terms of situations and circumstances the draft interpretation is intended to apply to.

The scope is considered to be too narrow and we recommend having also the following issues scoped in:

- forwards on NCIs,
- situations in which the majority shareholder holds NCI call options mirror-imaging the NCI puts, and
- puts written by other group companies than the parent.

We also consider it necessary that the DI addresses the issue which component of equity should be debited at initial recognition (IAS 32.23 only refers to a 'reclassification of equity'; e.g. in this context it remains unaddressed whether the debit entry is made to NCI).

The DI should also address the issue whether it makes a difference that NCI puts are written by the parent at its own discretion or whether the parent by law is forced to do so. An instance in which the parent would be forced to (economically) write such puts is be a situation when the parent in accordance with article 5 of the directive on takeover bids (Directive 2004/25/EC) is required to make a bid as a means of protecting minority shareholders[1].

[1] A financial liability arises from the existence of a contractual obligation of one party to the financial instrument (the issuer) to deliver cash to the other party (the holder) (IAS 32.17). We are aware that some argue a statutory requirement to launch a takeover bid as required by article 5 of the Directive 2004/25/EC is a legal obligation not a contractual obligation; no liability is therefore recognised.

If, however, the Committee considered the above mentioned issues and based on good reasons scoped them out, it should provide these reasons in the Basis for Conclusions.

We have acknowledged that the IC in DI.BC13 states that it is aware that there are broader questions related to the issue, that it did, however not address those wider-reaching issues because the Board asked the Interpretations Committee to address only the narrow issue that was submitted, by clarifying the accounting for subsequently measuring the financial liability that is recognised for a NCI put. We are not convinced by this argument since an interpretation with respect to *Put Options Written on Non-controlling Interests* should deal with all prevalent issues of the subject. To literally address only what has been asked for by the Board appears not to be an adequate attitude of the IC and will not result in the expected improvements to financial reporting through timely resolution of financial reporting issues.

Question 2—Consensus

The consensus in the draft Interpretation (paragraphs 7 and 8) provides guidance on the accounting for the subsequent measurement of the financial liability that is recognised for an NCI put. Changes in the measurement of that financial liability would be required to be recognised in profit or loss in accordance with IAS 39 *Financial Instruments: Recognition and Measurement* and IFRS 9 *Financial Instruments*.

Do you agree with the consensus proposed in the draft Interpretation? If not, why and what alternative do you propose?

Overall and taking all arguments into consideration, we are of the opinion that the consensus has been derived appropriately from the IFRS the DI makes reference to.

However, we are concerned with the outcome which is based on the accounting and presentation in accordance with IAS 32.23 for written NCI puts (which require physical settlement in exchange for cash). We do not consider the outcome to be consistent with the substance and economic reality of such puts. By requiring NCI puts to be recognised as if the option had already been exercised and recording a liability for the present value of the strike price of the option appears not be in line *with the Conceptual Framework* since there is no present obligation for the strike price (for further details on this line of argumentation please refer to the *Dissenting Opinion* to IAS 32 of Jim Leisenring from the issue of IAS 32 in December 2003). Based on this line of argument we are in favour of excluding written NCI puts from the scope of IAS 32. By doing so the scope exclusion would change the measurement basis of NCI puts to that used for other derivative contracts. Specifically, IAS 32, including the requirements of paragraph 23 to recognise a financial liability at the present value of the option exercise price, would not apply to NCI puts. Instead the requirements of IAS 39 and IFRS 9 for derivate contracts would apply (for further details we refer to the IFRIC UPDATE March 2011; the IC had made this proposal to the IASB; however in November 2011 the IASB voted not to amend the scope of IAS 32 to exclude NCI puts (for details see IASB UPDATE November 2011) but expressed support for considering addressing the potential conflict by clarifying the accounting for subsequent changes in the measurement of the NCI put).

However, if our preferred solution (i.e. excluding written NCI puts from the scope of IAS 32) may not gain a majority or may not be implemented in the short term, we alternatively would support proceeding with the solution presented in the DI in order to at least address divergent interpretations existing in practice.

Question 3—Transition

Entities would be required to apply the draft Interpretation retrospectively in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*.

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

We agree with the proposed transition requirements.