Deutsches Rechnungslegungs Standards Committee e.V.
Accounting Standards Committee of Germany ®
Der Standardisierungsrat

DRSC e. V. • Zimmerstr. 30 • 10969 Berlin

Telefon +49 (0)30 206412-12
Telefax +49 (0)30 206412-15
E-Mail info@drsc.de

EFRAG
Stig Enevoldsen
13-14 Avenue des Arts
B-1210 Brussels
Belgique

Berlin, 20 January 2009

Dear Stig,

EFRAG Draft Comment Letter on IASB Exposure Draft "Embedded Derivatives – Proposed amendments to IFRIC 9 and IAS 39"

On behalf of the German Accounting Standards Board (GASB) I am writing to comment on EFRAG's draft comment letter on the IASB Exposure Draft *"Embedded Derivatives – Proposed amendments to IFRIC 9 and IAS 39"*. We appreciate the opportunity to comment on EFRAG's draft comment letter.

For the detailed comments we refer to our comment letter to the International Accounting Standards Board's Exposure Draft, attached to this letter.

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

Yours sincerely,

Liesel Knorr
President

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Berlin, 20 January 2009

Sir David Tweedie
Chairman
International Accounting Standards Board
30 Cannon Street
London EC4M 6XH

United Kingdom

Dear David,

Exposure Draft 'Embedded Derivatives – Proposed amendments to IFRIC 9 and IAS 39'

On behalf of the German Accounting Standards Board (GASB) I am writing to comment on the IASB Exposure Draft 'Embedded Derivatives – Proposed amendments to IFRIC 9 and IAS 39' (herein referred to as 'the ED'). We appreciate the opportunity to comment on the Exposure Draft.

In general, we agree with the proposals set out in the ED. Although the ED clarifies the original and unchanged intention of the IASB, we believe that other views on how to treat embedded derivatives upon reclassification of the host contract were defensible before the ED was issued. If preparers had chosen an approach no longer permitted under the ED, they would be required to adjust this treatment in the following interim period. However, in our opinion the previous approach taken should not retrospectively lead to an accounting error requiring restatement.

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

GASB comments on the questions set out on the IASB's Exposure Draft 'Embedded Derivatives - Proposed amendments to IFRIC 9 and IAS 39'

Question 1

The exposure draft clarifies that an entity must assess whether an embedded derivative is required to be separated from the 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 proposal? If not, why? What would you propose instead, and why?

We agree with the proposed 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?

In principle, we agree with the proposed requirement that the assessment should be made on the basis of the circumstances that existed when the entity first became a party to the contract.

However, in cases where a change in the terms of the contract that significantly modifies the cash flows that otherwise would be required under the contract was made prior to the reclassification out of the fair value through profit or loss category, we believe that the assessment should be made on the basis of the new terms of the contract. We therefore suggest adjusting paragraph 7A of the ED in this respect.

Additionally, we would like to point out an issue raised in our public discussion on this ED. Some of the hybrid (combined) financial assets concerned can have considerably long terms so that an assessment based on the circumstances that existed at the date the entity first became a party to the contract might result in practical problems, if this date lies several years in the past. We come back to this issue in our answer to Question 5.

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 and loss category.

Do you agree with that proposal? If not, why? What would you propose instead, and why?

We agree with the proposal.

Question 4

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

We understand that the IASB wishes to clarify this issue as soon as possible, because it never was the intention of the Board that the requirements to separate particular embedded derivatives could be circumvented as a result of the October 2008 amendments to IAS 39 and IFRS 7. In this exceptional instance, we agree with the proposed effective date in spite of the difficulties arising when standards are backdated.

Question 5

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

Although this ED clarifies the original and unchanged intention of the IASB, we believe that other views on how to treat embedded derivatives upon reclassification of the host contract were defensible before the ED was issued and should, thus, be accepted by the Board. If preparers had chosen an approach no longer permitted under the ED (e.g. assessment performed on the basis of the circumstances that existed at the date of the reclassification), they would be required to adjust this treatment in the following interim period (in most cases the last quarter of 2008). However, in our opinion the previous approach taken should not retrospectively lead to an accounting error requiring restatement. We recommend including such a clarification in the transition requirements.

As mentioned in our answer to Question 2, there might be cases in which making the assessment based on the circumstances that existed when the entity first became a party to the contract will be difficult. We, therefore, suggest introducing an impracticability exemption using the definition in IAS 8.5 for those cases, i.e. if the entity cannot perform the required assessment after making every reasonable effort to do so, the circumstances at the reclassification date should be used as a basis for this assessment.