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® Der Standardisierungsrat

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Mr. Bob Herz
Chairman of the
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
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United States of America

Berlin, 13 February 2009

File Reference: Proposed Issue C22

Dear Bob,

On behalf of the German Accounting Standards Board (GASB) I am writing to comment on the Financial Accounting Standards Board's 'Proposed Statement 133 Implementation Issue C22 – Exception Related to Embedded Credit Derivatives'. We appreciate the opportunity to comment on the Implementation Issue.

The accounting for embedded credit derivatives (so-called 'synthetic' CDO structures) has been cited by many participants in last year's public roundtables on the financial crisis as an area where there was no level playing field. They claimed that the accounting would differ, depending on whether one used U.S. GAAP or IFRSs as a basis for preparing accounts: U.S. GAAP preparers would not be required to bifurcate embedded credit derivatives whilst IFRS preparers would. To our knowledge, staff from both boards looked at the issue and came to the conclusion that the accounting should be the same, regardless of the accounting regime used. Furthermore, it was agreed that separation of the embedded derivative, as promulgated by IAS 39.AG30(h), was appropriate. For that reason, IASB and FASB agreed that the FASB would publish a statement in which it would be made crystal-clear that separation of the embedded derivative was mandatory.

However, when reading the proposed DIG issue, we are concerned that, in fact, the opposite conclusion seemed to have been reached. In particular, new example 40 added as paragraph 200F describes a fully funded synthetic CDO where bifurcation of the embedded derivative would not be required under U.S. GAAP, while it is widely agreed that IFRS requires such a bifurcation. Therefore, we are concerned that the Proposed Implementation Issue, if approved in this form, would formally endorse the perception of many that there was indeed an inconsistency between IFRS and U.S. GAAP and, thus, of there not being a level playing field. We are afraid that such a move could lead others, especially in the political arena, to act – possibly unilaterally – if the issue was not solved by the Boards. We therefore urge the FASB to reconsider the issue and not to undertake any moves without the consent of the IASB.

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

Yours sincerely,

Liesel Knorr
President

cc: Sir David Tweedie, Chairman of the International Accounting Standards Board