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Dear Wayne,

IFRS IC tentative agenda decisions in its January 2014 meeting

On behalf of the Accounting Standards Committee of Germany (ASCG), I am writing to comment on several IFRS IC tentative agenda decisions, published in the January 2014 *IFRIC Update*. We list the decisions and our detailed comments in appendix A to this letter.

Further, we comment on one issue on which a final agenda decision has been made (see appendix B). We are particularly concerned about the short and probably incomplete rationale for this (final) decision as conveyed in the *IFRIC January 2014 Update*.

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

Yours sincerely,

Liesel Knorr

President



Appendix A – Comments on recent tentative agenda decisions

IAS 1 – Issues related to the application of IAS 1

We agree with the IFRS IC's decision in general. In particular, we agree with the rationale that IAS 1 is designed to allow for diversity in practice, as this supports financial information to be presented in a decision-useful manner – depending on the individual entity and/or business. Thus, diversity cannot be marked as negative in all cases; it is rather essential to allow for individually useful presentation.

This said, we would not support if specific presentation formats, (dis)aggregation levels, etc. were mandated and fixed. This might be in the particular interest of some constituents, but not in the interest of IFRS financial reporting in general. Any change requiring more prescriptive presentation schemes would have to be the outcome of a comprehensive project to revise IAS 1.

However, to our understanding the IFRS IC makes a judgement on one particular issue amongst the numerous issues mentioned in the submission. If we understand it correctly, the IFRS IC concludes that additional pro-forma columns in the primary statements are unlikely to comply with IAS 1.112(c). We deem this statement being made unintentionally; otherwise it would conflict with the central idea of the general decision of not prescribing specific presentation. This might warrant amending the wording of this decision.

Nevertheless, we think there are indeed some examples for which (existing or expected) diversity might not be in line with IAS 1. However, it is difficult to determine for which particular issue diversity is deemed appropriate (and which, thus, may not be restricted by IAS 1) and for which it is not. In the examples given in the submission, we acknowledge that:

- example a.1) ("presentation of amortisation and impairment losses on capitalised development cost") would demonstrate that there were circumstances where a required way of presentation would be appropriate;
- example b.3) ("presentation of the share of profit or loss of associates or and joint ventures accounted for using the equity method") would demonstrate that there were circumstances (e.g. different subsidiaries within a group presenting it differently) where a required single-line presentation would not be appropriate.

Thus, we would support if clarification or guidance on these or any other examples were developed only through a more comprehensive review, e.g. as part of the current disclosure



initiative. The IASB and the IFRS IC should ensure that such clarification or guidance is not developed only for selected issues that have been raised incidentally through a submission, but rather on a systematic manner.

IAS 12 – Recognition and measurement of DTA when an entity is loss-making

We do not support the outcome of recent discussions of issue #2 in the respective submission, which is whether a deferred tax asset (DTA) shall be recognised at a restricted amount when there is a legal "minimum taxation restriction". Whilst we acknowledge that this is not yet a tentative agenda decision (TAD), we deem our early comments being appropriate since a TAD on the related issue #1 of the very same submission has already been made by the IFRS IC. That former TAD (and its rationale) on issue #1 in particular make the outcome from recent discussions of issue #2 look surprising, or even inconsistent.

As a matter of fact, we note that in our jurisdiction tax law limits the extent to which tax losses can be recovered against future profits, i.e. only 60 % of future profits can be utilised for deducting tax losses carried forward in any given year. Thus, the issue is relevant and widespread. Recognition of a DTA without limitation (resulting from minimum taxation) is the predominant practice.

We note that a minimum taxation by tax law would not apply (ie. does not have any implication) in case future losses were expected. Thus, it appears inappropriate if in that case the amount to be recognised as a DTA was restricted.

However, due to the main underlying rationale for the IFRS IC's decision on issue #1 – which we clearly support –, the expectation of tax losses (or taxable profits) is not taken into account when determining the amount of a DTA to be recognised. Hence, recognising a DTA solely depends on the existence of reversing taxable temporary differences (being a deferred tax liability (DTL)), irrespective of whether future tax losses are expected. Thus, even in loss-making periods a DTA would be recognised in full, provided that a DTL was available.

If this rationale was carried over to issue #2, since future tax losses (or profits) were not taken into consideration, taxable temporary differences that allowed for recognising a DTA should not be limited to a certain percentage due to a minimum taxation requirement.

From a conceptual perspective, the decision on both issues should primarily depend on the existence of a DTL and not on the availability of future taxable profits or tax losses. As this is the underlying rationale for the TAD on issue #1, it should, consequently, result in supporting



view 2 (or 1B) for issue #2 – which would be that a DTA is recognised without limitation by minimum taxation.

To summarise our reservations: It appears, as confirmed by the IFRS IC in its TAD on issue #1, that IAS 12 applies a formalistic approach in assessing the recognition of DTAs when DTLs are recognised at the same time. If sufficient DTLs were recognised one would not have to assess whether sufficient taxable amounts would be available against which the DTAs could be used. This implies that the actual tax impact in the year when the temporary difference reverses is not relevant as long as there are sufficient DTLs recognised. This becomes especially clear, when the DTA results from a tax loss carry-forward, as those unused losses cannot be used if no sufficient taxable income is available. From our point of view, the same formalistic approach needs to be applied in a tax regime where there is a minimum tax restriction. Otherwise, the recognition of a DTA, when actually tax losses are expected, would depend on the arbitrary assumption of the actual tax implications when no tax losses are expected under this tax regime. So far, the current decisions on both issues do not follow the same rationale and are, thus, inconsistent with each other.

IAS 12 – Threshold of recognition on an asset if the tax position is uncertain

We support the decision. However, the question being answered here is also relevant in other circumstances, which look similar but are not within the scope of IAS 12 – i.e. taxes other than *income* taxes. The IFRS IC's decision leaves open how to account for these issues. While discussing similar issues, another (third) view has emerged: Payments to escrow accounts or deposits in court are similar to a deposit and would constitute a financial asset; hence, IAS 39 / IFRS 9 would likely be the relevant standard in these circumstances, and they require recognition of an asset.

IAS 19 – Guaranteed return on contributions or notional contributions

We note the IFRS IC's view that this issue is too broad to be addressed in an efficient manner. Nevertheless, as the IFRS IC observed, these plans are part of a growing range of plan designs and the accounting for these plans results in diversity in practice. Therefore, we would welcome guidance on how to account for these plans.

This issue is the second IAS 19 issue recently removed from the IFRS IC's agenda because it was deemed too broad to be addressed by the IFRS IC. In addition, there are other issues relating to IAS 19 that are, or have recently been, under discussion (e.g. discount rates, regional market issue, etc.). This shows that a more fundamental review of IAS 19 by the IASB



is warranted in the near future. Thus, we urge the IASB to carry out a comprehensive review of IAS 19 rather than a piecemeal approach.

Furthermore, we suggest that the IASB clearly define the scope of issues the IFRIC IC is able to solve. This should allow for a process that leads to answering issues rather than rejecting them for formal reasons; and it may result in adjustments to the due process handbook in order to clarify the borderline of responsibilities between the IASB and the IFRS IC, either in a general sense or, at least, with regard to potential minor "narrow-scope amendments" and/or interpretations.



Appendix B – Comments on a recent (final) agenda decision

IAS 32 – MCB convertible upon a contingent "non-viability" event

We basically support the IFRS IC's decision not to add this issue to its agenda. In our opinion, though, the decision is not well explained. We do not agree with the wording of the agenda decision as it does not include any statement by the IFRS IC on how to account for the submitted case. So far, it remains unclear whether the instrument may be considered a hybrid instrument and how its components (notional amount, interest payments) are to be accounted for.

More generally, we note that numerous requests with respect to IAS 32 have been submitted to the IFRS IC during the recent years. In our impression, these issues have been dealt with in a casuistic manner. Thus, we are concerned about IAS 32 related interpretations and decisions being inconsistent. Therefore, we recommend the IFRS IC to deliberate further whether the recent decision on the issue mentioned above is consistent with other interpretations/decisions made by the IFRS IC regarding IAS 32.