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Berlin, 23 September 2008

Dear Ms. Oyre,

Re.: ASCG/GASB Comments on the IASCF Proposal Paper “Review of the Constitution – Public Accountability and the Composition of the IASB”

On behalf of the Accounting Standards Committee of Germany (ASCG) and the German Accounting Standards Board (GASB) we are writing to comment on the IASCF “Review of the Constitution – Public Accountability and the Composition of the IASB – Proposals for Change” (proposal paper). The ASCG and the GASB appreciate the opportunity to comment on the above mentioned proposal paper.

The IASCF is especially seeking comments on the following proposals:

1. Creation of a Monitoring Group to link public accountability to official institutions;
2. Membership in the Monitoring Group;
3. The proposed mandate of the Monitoring Group;
4. Continued need of the Trustee Appointment Advisory Group (TAAG);
5. Expansion of the IASB members from 14 to 16;
6. Geographical formulation of the IASB suggested by the trustees; and
7. Flexibility on part-time membership on the IASB.

The ASCG and GASB welcome the IASCF’s proposal to link public accountability to official institutions. However, we have different views on certain issues which are summarized in this cover letter and explained in more detail in *Appendix 1*. Our comments in the appendix are structured according to the questions raised by the IASCF in the proposal and, additionally, we emphasize certain issues we feel to be important to be considered.

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Whilst we agree to and support the independence of standard setting, we would like to point out, that it is not the IASCF or IASB but the national legislators that decide on adopting the IASB standards in their respective region or country. The ASCG and GASB are not in favour of regional or national endorsement processes that could lead to deviations or carve-outs from the IASB's standards. We are aware that the endorsement of IASB standards is not in the scope of either the IASCF or the IASB. Nevertheless, we propose that the Monitoring Group members should commit to ensuring in their respective jurisdiction that IASB standards are endorsed unchanged. If, however, changes or carve-outs are made, the member should be required to give up its membership in the Monitoring Group.

We also agree that for the IASB as the organisation setting the financial reporting standards, which are in the process of becoming global financial reporting standards, public oversight and public accountability are important issues which need not only be enhanced for the IASCF. However, we also believe that the extent of this public oversight should be restricted. Therefore, we are concerned about the extent of influence the proposed Monitoring Group might have on the IASCF.

Enhancing the public accountability of the IASCF and the means of doing so are fundamental and significant decisions which in our view should not be made in a hurry. We do not understand why the IASCF sees the need to conduct and complete this part of the constitution review as a separate phase in advance of the regular constitution and without an appropriate due process.

Additionally, we would like to point out that the current means of funding the IASCF do not ensure its independence. We propose that in the context of the constitution review the IASCF funding should also be reviewed and revised so that voluntary contributions by constituents are no longer permitted, e.g. by introducing a levy on listed companies. Implementation and Compliance with this approach should be reviewed by the proposed Monitoring Group, and to the extent members of the Monitoring Group have not complied with this requirement within a certain period after establishing the Group, such member should be asked to step down.

Regarding extension of the IASB membership from 14 to 16 and flexibility on part-time membership we do not agree with the IASCF proposal. We are concerned that the efficiency and effectiveness of the technical work will suffer from an increase in the number of board members. Additionally, while we understand and acknowledge that the option to become a part-time member of the IASB widens the basis from which to appoint members, we believe that the work programme each IASB member has to fulfil is by far too voluminous for a part-time member to accomplish.



Consequently, whilst we acknowledge the intent of the IASCF's proposal to strengthen its governance, important features of the proposal fall short of this intent. We do hope that the IASCF Trustees will take our detailed comments and our desire to support the proposal's intent into consideration. Obviously, we will be happy to discuss those comments and be available to answer any questions you may have.

Yours sincerely

Neubuerger

*Accounting Standards
Committee of Germany*

Knorr

*German Accounting
Standards Board*



Appendix 1:

ASCG and GASB comments on the questions raised by the IASCF in the “Review of the Constitution – Public Accountability and the Composition of the IASB – Proposals for Change”

Questions relating to the Monitoring Group

Q1. *Do you support the creation of a link to a Monitoring Group in order to create a direct link of public accountability to official institutions?*

In proposing to create a Monitoring Group the Trustees accept the need to enhance the public accountability, as requested by various parties worldwide. We welcome that the IASCF proposes a link of public accountability to official institutions and, therefore, support the creation of a Monitoring Group. However, we have different views on certain related issues, especially on the charter of the proposed Monitoring Group and the operating procedures being outside the scope of the IASCF constitution and on the urgency with which the IASCF pushes the proposal as a priority in advance of the regular constitution review and without an appropriate due process. With the proposal paper being published on 21 July 2008 and the comment deadline being the 20 September 2008, constituents have only very little time to comment.

Enhancing the public accountability of the IASCF and the means of doing so are fundamental and significant decisions which in our view should not be made in a hurry. We do not understand why the IASCF sees the need to conduct and complete this part of the constitution review in advance.

Q2. *The proposals contemplate a Monitoring Group comprising representatives of seven public authorities and international organizations with a link to public authorities. While recognizing that the Monitoring Group is an autonomous body, the Trustees would welcome comments regarding the Monitoring Group’s membership and whether other organizations accountable to public authorities and with an interest in the functioning of capital and other financial markets should be considered for membership.*

In general, we agree with the proposed composition of the Monitoring Group. However, we have some concerns about certain related issues:

In par. 22 of the “New Sections creating the Monitoring Group” it is said that the Monitoring Group shall reconsider its composition from time to time relative to its objectives.

We feel that a review “from time to time” is too vague. We understand that the initial members of the Monitoring Group will need some time to fully fulfil their mandate. However, we believe that after a period of five years at a maximum the composition of the group should be reviewed and thereafter every five years or less, if circumstances arise that would make a change in the composition necessary.



Such circumstances may for example be new major public authorities charged with the adoption or recognition of financial reporting standards or international organizations that have requirements for accountability to public authorities and a mandate that includes facilitating the development and effective functioning of capital markets.

We suggest the following wording for section 22:

The Monitoring Group shall reconsider its initial composition at the latest five years after the initial appointment of the Monitoring Group members. Thereafter, the Monitoring Group shall review its composition every five years or earlier if circumstances arise indicating that a change might be necessary.

Such circumstances may be, but are not limited to, new major public authorities charged with the adoption or recognition of financial reporting standards or international organizations that have requirements for accountability to public authorities and a mandate that includes facilitating the development and effective functioning of capital markets.

The proposed Monitoring Group will create a link between the Trustees and public authorities and shall enhance the public accountability of the IASC Foundation. The Trustees recommend in the discussion paper (Par. 16) that the Memorandum of Understanding (MoU) should be subject to public consultation before its completion. In general, we believe that the charter and the operating procedures of the proposed Monitoring Group should not be outside the IASCF constitution review and that a proper due process should be carried out. However, in case the Monitoring Group and their charter and operational procedures will remain outside the scope of the IASCF constitution, we explicitly welcome the Trustees' recommendation of public consultation on the MoU as a minimum measure; however, this is not yet reflected in par. 18 representing the proposed changes to the Constitution creating the Monitoring Group. Without prior public consultation it would be too late for the constituents to take part in deciding on the content of the MoU and, consequently, the design of interaction between the Monitoring Group and the Trustees.

The discussion paper remains silent on whether or not the Monitoring Group's meetings will be public. We believe that, in order to enhance public accountability, the meetings of the Monitoring Group, like the meetings of the IASCF and the IASB, should be open to the public. Certain discussions may be held in private at the discretion of the Monitoring Group.

We also propose that the existence of the Monitoring Group should be reconsidered if it should not fulfil its objectives. Appropriate regulations should be included in the charter of the Monitoring Group.

Q3. *The Trustees will remain the body primarily responsible for the governance of the organization and the oversight of the IASB. Their responsibility to a Monitoring Group will enable regulatory and other authorities responsible for the adoption of IFRSs to review the Trustees' fulfilment of their constitutional duties. Does the formulation of the Monitoring Group's mandate and the Trustees' reporting responsibilities, as described in the proposed Section 19, appropriately provide the link, while maintaining the operational independence of the IASC Foundation and the IASB?*



Whilst we agree with the importance of independent standard-setting, we would like to point out that in our view the Monitoring Group should accompany the Trustee nomination process but not take over control from the Trustees. We are especially concerned about the extent of influence the Monitoring Group will have on the IASB. We feel that the proposal about the Monitoring Group having the authority to request meetings with [...] the chairman of the IASB about any area of work of [...] the IASB might lead to a transfer of control over the IASB from the Trustees to the Monitoring Group. We agree that for the IASB as organisation setting the standards which are in the process of becoming global accounting standards public oversight and public accountability are important issues but we believe that the extent of this public oversight should not overrule the current governance principles of the IASCF and IASB respectively.

In this regard, the formulation of the Monitoring Group's mandate (par. 22.19(a)) to "review and provide advice" to the Trustees on their fulfilment of the responsibilities is too ambiguous. We note that there are different understandings of "review and provide advice". In some parts of the world "review" is understood to include not only the analysis but also the mandatory adoption of suggestions as results from the analysis. In other parts of the world "review" only covers the analysis part and making suggestions for improvement without these suggestions having to be followed. To avoid a potentially serious misunderstanding of the Monitoring Group's mandate in this context, the IASCF should make clear, that "review and providing advice" does include giving advice but that this advice does not need to be followed by the Trustees.

We suggest the following wording for section 19 (b):

- *to review and provide advice to the Trustees on their fulfilment of the responsibilities set out in Sections 13 and 15. The Trustees shall carefully consider the advice given by the Monitoring Group but acceptance is at the discretion of the Trustees.*

Additionally, we would like to point out that the ASCG and GASB are not in favour of regional or national endorsement processes of IFRS standards. We are aware that the endorsement of IFRS standards is not in the scope of either the IASCF or the IASB. Accordingly, we believe that, as part of an enhanced public accountability process, the members of the proposed Monitoring Group should commit to ensuring that any existing endorsement processes in their respective regions or countries will result in endorsements of IFRS standards without deviations or carve-outs. If, however, IFRS are endorsed with changes or carve-outs, the respective member should be required to give up its membership in the Monitoring Group.

Q4. Given the proposed creation of a Monitoring Group, would there be a continued need for the Trustee Appointment Advisory Group in the selection of Trustees? If so, what should be the role and composition of the Trustees Appointments Advisory Group?

The mandate of the Trustee Appointments Advisory Group (TAAG) is to help the Trustees in nominating and appointing Trustees. The Monitoring Group will also be entitled to recommend candidates and additionally it will be responsible to approve Trustee appointments and reappointments.

In addition, the new Monitoring Group will to a large extent have the same members as the current Trustee Appointments Advisory Group.

Consequently, we believe that there is no continued need for the Trustee Appointment Advisory Group. However, should there continue to be a TAAG, we want to point out that the independence of the respective members in the TAAG and the Monitoring Group needs to be reviewed.

Questions relating to the IASB's composition

Q5. Do you support the principle behind expanding the IASB's membership to 16 members in order to ensure its diversity, its ability to consult, liaise and communicate properly across the world, and its legitimacy?

We agree that the liaison with constituents might improve by increasing the number of IASB members. However, we are concerned that the cooperation on technical matters will become more difficult the more members are on the IASB and believe that the technical work will be more efficient and more effective when there are fewer board members, possibly even fewer than currently are.

Since the ASCG and GASB give preference to their concerns about the efficiency and effectiveness of the boards' technical work, we do not support expanding the IASB membership to 16.

However, should the IASCF decide to nevertheless increase the number of board members, we propose that the foundation should limit the number of Board Members definitely, not exceeding a total of 16 members.

By increasing the number of board members we see the risk that the number of subcommittees will also further increase. We fear, that with an increasing number of subcommittees, small groups will to an even larger extent than it is already the case work on technical issues and that these issues will then not or at least not sufficiently be discussed by the full IASB and, therefore, de facto being withdrawn from the IASB's due process.

Q6. Do you agree with the geographical formulation suggested by the Trustees?

We believe that the professional competence and practical experience of Board members should be the overriding prerequisites.

Q7. The Trustees are suggesting that the Constitution should provide flexibility on the matter of part-time membership. Do you support that proposal?

We understand and acknowledge that the option to become a part-time member of the IASB widens the basis from which to appoint members. A larger number of qualified people might be attracted to the IASB when there is an option to fill in the position on a part-time basis. However, we feel that the work programme each IASB member has to fulfil is by far too voluminous for a part-time member to accomplish.



In our view, part-time members of the IASB should only be permitted if the workload can be accomplished in part-time, meaning that the work programme for each board member would have to be reduced.

Since we feel the current technical work programme to be already far too extensive to be accomplished by part time members, increasing the number of part-time members would also at least partly conflict the objective of enhanced liaison with constituents, which was provided as one reason for increasing the number of board members in total. Therefore, we do not support the proposal in its current form.

Other comments

a. Membership in the Standards Advisory Council

We noted that the Trustees of the IASC Foundation are currently seeking applications for membership on the SAC after the terms of the current members and chair expire at the end of 2008. The application deadline is 19 September 2008.

The IASCF's call for application for membership indicates a change to the membership requirements of SAC members ("*individual SAC members will preferably be representatives of organisations that have an interest in standard-setting and represent the various constituencies involved*"). We are surprised that the IASCF does not abide to its own rules and question, why the change in the SAC membership requirements has not been included in this phase 1 of the constitution review since the IASCF is already applying these changes to its current search for SAC members.

The IASB's Standards Advisory Council (SAC) Terms of Reference and Operating Procedures state, that, as part of the consultative process, the SAC gives advice to the IASB on a range of issues which include, but are not limited to, input on the IASB's agenda, input on the IASB's project timetable (work programme) including project priorities, and consultation on any changes in agenda and priorities, and advice on projects, with particular emphasis on practical application and implementation issues, including matters relating to existing standards that may warrant consideration by the International Financial Reporting Interpretations Committee.

The ASCG has nominated members to the SAC for the past couple years. However, given the formation of the new Monitoring Group, we anticipate that the role of the SAC will change. Hence, in our view, an invitation to apply for SAC membership should only be initiated by the IASCF once the constitutional review, including its second phase, is finalised and the revised mandate of SAC is clear.

If, however, the SAC will not be abolished, we propose to review the composition of the SAC and Monitoring Group to clearly distinguish the membership in either group, to reduce the number of members in the SAC and to clearly distinguish the respective objectives of the Monitoring Group and SAC.

The consulting function of the SAC on strategic and technical matters should be strengthened, input to the IASB agenda provided by the SAC and advice given by SAC should have to be considered by the IASB and results of this consideration should have to be documented. SAC itself needs to concentrate more on its responsibilities set out in its Terms



of Reference and should take views as a Council on more important matters in order to strengthen what the advice given to the IASB represents.

b. Public accountability of the IASB

In anticipation of the second phase of the IASCF Constitution Review we would like to point out that we believe that the public accountability should also be enhanced for the IASB. Especially, the IASB should provide to its constituents more and more timely justifications or at least the reasons behind the decision, e.g. for its agenda decisions, when feedbacks from constituents have not been incorporated by the IASB.