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IFRS Technical Committee

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Dear Erkki,

Proposed amendments to the IFRS Foundation Due Process Handbook

On behalf of the Accounting Standards Committee of Germany (ASCG) I am writing to comment on the IFRS Foundation's Exposure Draft *Proposed amendments to the IFRS Foundation Due Process Handbook*. We appreciate the opportunity to comment on this ED.

In general, we agree with the proposals. Notwithstanding our consent, we have some reservations to the proposals in respect of role and status of agenda decisions and of providing the Board with the tool of agenda decisions, as the degree of authority for agenda decisions and explanatory material appears unclear. We therefore submit suggestions for further clarifications.

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 Jan-Velten Große (grosse@drsc.de) or me.

Yours sincerely,

Andreas Barckow
President

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Appendix – Answers to the questions of the ED

Question 1 – Effect analysis

Do you agree with these proposed amendments?

We agree with the proposed amendments as they clarify the scope and purpose of effect analyses. We also agree with differentiating the various activities taken in respect of effect analyses as well as the different level and format of reporting about them depending on the stage of the process in developing new or amended standards.

We generally believe that the IASB should, at all stages of the development of a pronouncement, be aware of potential impacts of its proposals to certain jurisdictions or industries. Whilst we acknowledge that the IASB cannot reasonably be expected to have a complete overview of the global situation, we suggest that Board uses its network of national standard setters as much as possible in order to be informed early on of potential issues with the respective project.

Even if not directly part of any impact assessment or effects analysis, we urge the IASB (and the IFRS Interpretations Committee, where appropriate) to take note of linguistic challenges in relation to its standard-setting efforts. We suggest that any effects stemming from translating the proposed requirements be directly asked and assessed so as to ensure proper implementation and consistent application of the final requirements.

Question 2 – Agenda decisions

Do you agree with these proposed amendments?

Before commenting on the specific aspects consulted on, we would like to frame our comments with a few introductory remarks.

Firstly, we fully support the objective of ‘being helpful to constituents’ and acknowledge that striking the ‘right’ balance between a timely yet comprehensive answer can be challenging. Overall, we are satisfied that the requests for clarifications launched with the Interpretations Committee are generally dealt with in a good and orderly process. That said, we believe that the process can be improved even further by acknowledging the following points:

- We believe that the Committee should have the power to decide upon the appropriate timing for dealing with a submission. In particular, if a submission has the potential of disrupting implementation of a new requirement issued but not yet effective, the Committee should have the means to decide whether, when and how the query is being addressed. We suggest that the reasoning of the Committee be made transparent in order to avoid any assertions of ‘ducking away’ from or hiding issues raised with the Committee.
- On occasions, we have had the impression – as evidenced by a number of our comment letters submitted to the Interpretations Committee – that a submission was not touching on the ‘real’ issue pertaining to the subject. We therefore believe that the Committee should have the authority to amend the agenda item request as appropriate, i.e. to narrow or widen the fact pattern in order to make it more useful to constituents.
- Some agenda decisions published in the IFRIC Update are so condensed that the decision reached is difficult to understand and comprehend. Not only would this be unhelpful to constituents, it would also run the risk of wording being so generic that some may apply it to different fact patterns without understanding the key turn points. We feel that any decisions published in the Update should be readable on a stand-alone basis, i.e. should contain all necessary facts and circumstances and the rationale that gave rise to the Committee’s decision.

Secondly, we note that many in our jurisdiction have repeatedly questioned the level of authority of agenda decisions, and we believe that clarifying their status is particularly helpful in that regard. In order not to undermine what agenda decisions are meant to purport, we nonetheless call upon extreme caution and rigour in the process. Specifically, the Committee (and the Board) should *not* use the tool of an agenda decision, if the decision can be seen as adding content to existing requirements. In this regard, we would like to point the Trustees at the importance of language, existing behaviour and cultural background: Something that the Committee members feel can (and should) only be read in a certain way may, in fact, have been read and be read in more than just one way – one often cited reason being that a particular requirement may have existed in national GAAP in a jurisdiction or industry that constituents felt was in line with a certain IFRS pronouncement. Hence, whenever there is inconsistent application of IFRS requirements, our prime reason would be that the main body of the standard text may not be clear enough and should be clarified. We acknowledge that carrying out an amendment every time that some have read the text in a different way is neither desirable nor feasible to achieve, at least not in the short term. However, and notwithstanding obvious mis-readings, we suggest that an inventory of such wording issues be kept that can be drawn upon if a pronouncement is being changed for other reasons.

Thirdly, we would like to draw the Trustees' attention to the fact that many entities in our jurisdictions simply do not have the means to actively follow the proceedings of the Interpretations Committee on a regular basis. We are confident that no-one in our constituency is deliberately trying to circumvent requirements by deliberately misreading the text – entities are doing their utmost to give their best possible reflection under the literature. If, nonetheless, a particular reading was not reflective of the IASB's intention, the entities concerned should not be penalized for having read and understood the text in a different way. Rather, they should be guided and coached to reach the understanding that the Board intended and be given ample time to duly implement the requirements. Lastly, we believe that the organisation needs to be more mindful of its communication toolbox. Whilst we fully concur with the status of mandatory and non-mandatory material laid down in the Handbook, we wish to flag that this distinction is largely non-existent in and not shared by our constituency: There will always be a *perceived status* of anything that is coming out of the IASB's offices, no matter what the disclaimers say. We therefore believe that this needs to be more thoroughly born in mind when communicating with the outside world. In this regard, it may also be appropriate to reconsider the complete arsenal of different products carrying non-mandatory status and their appropriateness in any given instance, such as (and not limited to) agenda decisions, snapshots, webinars, webcasts, speeches, tweets, TRG discussions, agenda papers, etc.

Role and status of agenda decisions and objective and nature of explanatory material

As stated above, we support clarifying the role and status of agenda decisions as well as the nature of explanatory material. We believe that the suggested additions to the Due Process Handbook are helpful and, thus, welcome their inclusion. We understand the proposals to more clearly distinguish between standard-setting activity on the one hand, where an amendment to the standard or an interpretation is warranted, and all other means of communication on the other. It is our understanding that it is only through the former that new requirements can be established and only after having followed the due process foreseen in the Handbook.

We would like to point the Trustees at two issues already mentioned in the introductory remarks that do play a role here.

- Firstly, and in order not to undermine the clear distinction proposed, due application of this distinction is of the essence: If constituents have the impression that the organisation is using the tool of agenda decisions or other explanatory material to add provisions to the requirements without changing the text in the main body of the standard, the distinction is pointless. This may be read as unduly construing the Committee and the Board, but we feel such binding is

necessary in order to act in accordance with the stated objectives and remain faithful to constituents. In this regard, we suggest that the text in paragraph 8.3 be reconsidered where it reads: *“An agenda decision typically includes explanatory material when the Interpretations Committee’s reason for not adding a project to the standard-setting agenda is that the principles and requirements in the Standards provide an adequate basis for an entity to determine the appropriate accounting.”* We suggest omitting ‘typically’ in that sentence as the text may otherwise be understood as allowing for exceptions. We also note the suggested inclusion in paras. 8.4 and 5 that explanatory material is seen as *“providing new information that was not otherwise available and could not otherwise reasonably have been expected to be obtained.”* Whilst we appreciate the intention of this sentence, which we understand to state generally that a different application by an entity does not mean that its accounts were erroneous, we note that the emphasis on ‘new information’ may cast doubts as to whether the agenda decision was really merely reflective of existing requirements and not adding to the literature.

- Secondly, we urge the Board and the Committee to remain open to different readings of the mandatory text, as stated before: Even if Board and Interpretations Committee members believe that the text is clear and pervasive, it may just not be. In such cases, issuing an agenda decision means disrupting practice for those that, with best intentions, have read and understood the text differently. Hence, if agenda decisions (or explanatory material) are being used to demonstrate how the requirements apply to a specific fact pattern, everyone in the process should exercise a degree of caution, such that additional and different words used may be perceived as adding or changing the content (even if that was not the intent). In these cases, using wording that may be perceived as an entity having misapplied a standard and produced an error should be avoided.

Timing of implementing agenda decisions

We support the Trustees’ intention of the proposals. Notwithstanding our support, we believe that the aspect of entities taking “sufficient time” for determining and potentially implementing any changes to their accounting is lacking clarity. Whilst we understand that ‘sufficient time’ always depends on the specific facts and circumstances, we understand the objective of the proposal to not force entities to change their reporting straight away but to allow for a diligent implementation and application of the agenda decisions (as soon as realistically feasible). We therefore suggest adding to paragraph 8.5 further factors that may reasonably be expected to have an impact on an entity’s ability to change its accounting, such as the nature of the transaction, product or service affected, the entity’s technical capabilities, its size and the prevailing view in the industry.

Board agenda decisions

We understand and are generally sympathetic to the proposal of providing the Board with an additional tool for quickly providing clarity to the market without necessarily having to change a requirement. Our consent is to be read with the same understanding as provided above for agenda decisions issued by the IFRS Interpretations Committee, notably that Board agenda decisions should not be used as a tool for adding mandatory requirements to the literature. We believe that the text in paragraph 8.6 reads more ambiguous and should therefore be reconsidered. Further, we do not believe that the text in paragraph 8.7 according to which *“the Board is expected to publish agenda decisions only in rare circumstances”* is either helpful or warranted as it does not add any clarity as to what those ‘rare circumstances’ may encompass. This is especially true for areas mentioned to us as examples, such as the publication of IFRS 17 where sufficient knowledge does not (yet) exist at the IFRS Interpretations Committee.

Our understanding is that the Board envisages a tool that can be used to ex ante avoid anticipated inconsistent application. In this regard, Board agenda decisions would in no way be different to

other explanatory and educational material. We believe that it would be more helpful to constituents if the Due Process Handbook clarified the situations in which these agenda decisions may most likely be issued, e.g. after issuance of a standard but before their effective date, rather than discussing their frequency.

Lastly, we suggest that the Due Process Handbook clarify the circumstances under which agenda decisions are being issued by the Board rather than the Interpretations Committee.

Question 3 – Other matters

Do you agree with these proposed amendments?

Educational material

We generally agree with streamlining the list of educational material with current practice, as well as strengthening the review process for that material.

However, we wonder as to the distinction between explanatory material and educational material: Whilst we acknowledge that both follow a different process, we point to the fact that both means are equal in that they must not add or change any IFRS requirements. We are not sure whether the different due or review processes effectively result in a different authoritative status. We believe they should not and suggest this be made explicit in the Handbook. We also think that the three-level-review as set out in para. 8.10 of the Handbook is appropriate, yet do not necessarily see a need for fixing the number of Board members being responsible for any such review appear.

Finally, we reiterate a point already flagged in our answer to question 2 above that the organisation needs to be more mindful of its communication toolbox. Given that the majority of the IASB's constituents will always assign a perceived status to everything that is coming out of the IASB's offices, regardless of any disclaimers, we believe that the organisation needs to be particularly careful when communicating with the outside world through educational material. Specifically, it should be careful of using different wording when explaining mandatory text as this has the potential of being seen as adding guidance (and not just information).

Consultation in respect of the Board's work plan

We agree with the proposals, as the consultation process now appears more robust.

IFRS Taxonomy

We agree with the table, as it makes the process more visible, and also with specifying the DPOC's role.

Additional amendments

We agree with the list of "additional amendments", as set out in para. 36 of the ED.

Question 4 – Consequential amendments to the IFRS Foundation Constitution

Do you agree with these proposed consequential amendments?

We agree with the consequential amendments to the Constitution.