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Jean-Paul Gauzès
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IFRS Technical Committee

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Berlin, 17 May 2021

Dear Jean-Paul,

IASB Exposure Draft ED/2021/1 *Regulatory Assets and Regulatory Liabilities*

On behalf of the Accounting Standards Committee of Germany (ASCG) I am writing to contribute to EFRAG's Draft Comment Letter (herein referred to as 'DCL') on the IASB's ED/2021/1 *Regulatory Assets and Regulatory Liabilities* (herein referred to as 'ED') by providing our feedback vis-à-vis the IASB.

We provide our response to EFRAG's questions to constituents in the appendix of this letter and attach our comment letter to the IASB, containing our detailed comments on the questions raised in the ED.

If you would like to discuss our comments further, please do not hesitate to contact Olga Bultmann (bultmann@drsc.de) or me.

Yours sincerely,

Sven Morich

Vice President

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Appendix – Answers to the questions in the DCL

Question 1 – Objective and scope

Have you identified any other situations in which the proposed scope would affect activities that you do not view as subject to rate regulation that give rise to regulatory assets and regulatory liabilities? If so, please describe the situations and why you consider they should not be within the scope.

We are not aware of any situations in which the proposed scope would affect activities that you do not view as subject to rate regulation that give rise to regulatory assets and regulatory liabilities. However, it should be noted that we have received very limited feedback from entities outside the utilities sector.

Have you identified any situations in which the proposed scope would include self-regulation? If so, please explain these situations. In your view, should such situations of self-regulation be included in the scope of the ED?

We are not aware of any situations in which the proposed scope would include self-regulation.

Do you think that there should be additional criteria (e.g., limited competition, regulator committed to support the financial viability through the rate-setting process, customer having no ability to avoid price increases) for eligibility to be within the scope of the proposed Standard?

We do not consider additional criteria for eligibility to be within the scope of the proposed Standard to be necessary.

Are you aware of examples of anomalous outcomes that could arise from the application of the scope of proposed Standard (e.g., recognition of currently excluded enforceable rights and obligations)?

We are not aware of examples of anomalous outcomes that could arise from the application of the scope of proposed Standard. However, we have concerns about the outcomes that could arise from the application of the detailed proposals on how an entity shall determine the components of the total allowed compensation for goods or services supplied in a period (paragraphs B2-B15). In this regard, please refer to our comments to question 3.

Question 3 – Total allowed compensation

In certain regulatory agreements, the regulator may entitle the entity to recover, as part of the regulatory rate, cost relating to construction before the asset is in operation and is being used to supply goods or services. How common are these type of agreements in your jurisdiction?

Since we are not aware of any German entities outside the energy sector that would fall within the scope of the ED, our response is limited to the energy sector.

In Germany, the entities regulated by the Federal Network Agency (Bundesnetzagentur) are entitled to charge to customers a regulatory return on the committed capital (return on capital) during the construction period. This corresponds to the procedure described in paragraph BC96(b) of the ED. The investments are defined and approved in the network expansion plan so that the regulatory return on the committed capital is certain. Even if – in the hypothetical case – the investment is not continued, the entity will not have to pay back this regulatory return.

Which of the two views (view 1 or view 2) on the treatment of regulatory returns on CWIP do you support and why?

We support view 1. For our reasons for this view, please refer to our detailed comments on Question 3 in the comments letter to the IASB attached below.

Do you expect any implementation issues relating to the proposals in the ED to defer and recognise revenue from construction work in progress only in the operating phase?

Yes, we expect significant administrative and financial burden for entities to implement the proposals in the ED to defer and recognise revenue from construction work in progress only in the operating phase. In this respect, please refer to our detailed comments on Question 3 in the comments letter to the IASB attached below.

Question 4 – Recognition

Are you aware of situations where there is uncertainty regarding the existence of an enforceable right or enforceable obligation under a regulatory agreement, and if so, please describe these situations?

We are aware of situations where new legal requirements are created, and it is not yet sufficiently clear how these requirements will be included in the regulatory framework because negotiations with the regulator have not yet been completed. In these cases, judgement would be used to consider whether an enforceable right or an enforceable obligation exists.

Question 5 – Measurement

Do you consider that the guidance in the ED on the boundary of the agreement is understood in practice and can be applied without undue cost and effort? If not please provide examples of the possible challenges on determining the boundary of the regulatory agreement and assessing which cash flows to include in the measurement of regulatory assets and regulatory liabilities.

[Response is pending.]

Question 6 – Discount rate

Which of the two views on discounting do you support and why?

[Response is pending.]

Question 9 – Disclosure

In your view, which of the proposed disclosures in the ED should be prioritised (i.e., which of the disclosures are most useful and which are less useful)? Please explain.

[Response is pending.]

Question 10 – Effective date and transition

Do you agree with the IASB decision to charge to goodwill and not to retain earnings all the adjustments to regulatory assets and liabilities resulting from the simplified treatment of the past business combinations? If not, what do you propose?

[Response is pending.]

Question 11 – Effective date and transition

Are you aware of examples of service concession arrangements falling under both the proposed Standard and IFRIC 12?

[Response is pending.]

Do you agree that the goodwill-related regulatory balances should not be reclassified to goodwill on the first-time adoption of IFRS Standards (proposed amendments to IFRS 1) but recognised as a separate subset of regulatory assets which should subsequently be amortised?

[Response is pending.]

What are your views about an approach where acquired regulatory assets (or liabilities) are not exempt from IFRS 3 and are measured at fair value and further discounted at adjusted regulatory interest rate in a manner similar to the provisions of IFRS 9?

[Response is pending.]