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IFRS Technical Committee
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Berlin, XX September 2021

Mr Andreas Barckow
Chair of the
International Accounting Standards Board
Columbus Building
7 Westferry Circus / Canary Wharf
London E14 4HD

Dear Andreas,

IASB Discussion Paper DP/2020/2 *Business Combinations under Common Control*

On behalf of the Accounting Standards Committee of Germany (ASCG) I am writing to comment on the Discussion Paper DP/2020/2 *Business Combinations under Common Control* issued by the IASB on 30 November 2020 (herein referred to as 'DP').

We welcome the opportunity to comment on the DP proposals and …

Our responses to the questions of the DP are laid out in the appendix to this letter. If you would like to discuss our comments further, please do not hesitate to contact Peter Zimniok (zimniok@drsc.de) or me.

Yours sincerely,

Sven Morich

Vice President

Appendix – Answers to the questions in the DP

Question 1

Paragraphs 1.10–1.23 discuss the Board's preliminary view that it should develop proposals that cover reporting by the receiving company for all transfers of a business under common control (in the Discussion Paper, collectively called business combinations under common control) even if the transfer:

(a) is preceded by an acquisition from an external party or followed by a sale of one or more of the combining companies to an external party (that is, a party outside the group); or

(b) is conditional on a sale of the combining companies to an external party, such as in an initial public offering.

Do you agree with the Board's preliminary view on the scope of the proposals it should develop?

Why or why not? If you disagree, what transactions do you suggest that the Board consider and why?

Question 2

Paragraphs 2.15–2.34 discuss the Board's preliminary views that:

(a) neither the acquisition method nor a book-value method should be applied to all business combinations under common control.

Do you agree? Why or why not? If you disagree, which method do you think should be applied to all such combinations and why?

(b) in principle, the acquisition method should be applied if the business combination under common control affects non-controlling shareholders of the receiving company, subject to the cost–benefit trade-off and other practical considerations discussed in paragraphs 2.35–2.47 (see Question 3).

Do you agree? Why or why not? If you disagree, in your view, when should the acquisition method be applied and why?

(c) a book-value method should be applied to all other business combinations under common control, including all combinations between wholly-owned companies.

Do you agree? Why or why not? If you disagree, in your view, when should a book-value method be applied and why?

Question 3

Paragraphs 2.35–2.47 discuss the cost–benefit trade-off and other practical considerations for business combinations under common control that affect non-controlling shareholders of the receiving company.

(a) In the Board's preliminary view, the acquisition method should be *required* if the receiving company's shares are traded in a public market.

Do you agree? Why or why not?

(b) In the Board's preliminary view, if the receiving company's shares are privately held:

(i) the receiving company should be *permitted* to use a book-value method if it has informed all of its non-controlling shareholders that it proposes to use a book-value method and they have not objected (the optional exemption from the acquisition method).

Do you agree with this exemption? Why or why not? Do you believe that the exemption will be workable in practice? If not, in your view, how should such an exemption be designed so that it is workable in practice?

(ii) the receiving company should be *required* to use a book-value method if all of its non-controlling shareholders are related parties of the company (the related-party exception to the acquisition method).

Do you agree with this exception? Why or why not?

(c) If you disagree with the optional exemption (Question 3(b)(i)) or the related-party exception (Question 3(b)(ii)), in your view, how should the benefits of applying the acquisition method be balanced against the costs of applying that method for privately held companies?

Question 4

Paragraphs 2.48–2.54 discuss suggestions from some stakeholders that the optional exemption from and the related-party exception to the acquisition method should also apply to publicly traded companies. However, in the Board's preliminary view, publicly traded receiving companies should always apply the acquisition method.

(a) Do you agree that the optional exemption from the acquisition method should not be available for publicly traded receiving companies? Why or why not? If you disagree, in your view, how should such an exemption be designed so that it is workable in practice?

(b) Do you agree that the related-party exception to the acquisition method should not apply to publicly traded receiving companies? Why or why not?

Question 5

Paragraphs 3.11–3.20 discuss how to apply the acquisition method to business combinations under common control.

(a) In the Board's preliminary view, it should not develop a requirement for the receiving company to identify, measure and recognise a distribution from equity when applying the acquisition method to a business combination under common control.

Do you agree? Why or why not? If you disagree, what approach for identifying and measuring a distribution from equity do you recommend and why? In particular, do you recommend either of the two approaches discussed in Appendix C or do you have a different recommendation?

(b) In the Board's preliminary view, it should develop a requirement for the receiving company to recognise any excess fair value of the identifiable acquired assets and liabilities over the consideration paid as a contribution to equity, not as a bargain purchase gain in the statement of profit or loss, when applying the acquisition method to a business combination under common control.

Do you agree? Why or why not? If you disagree, what approach do you recommend and why?

(c) Do you recommend that the Board develop any other special requirements for the receiving company on how to apply the acquisition method to business combinations under common control? If so, what requirements should be developed and why are any such requirements needed?

With regard to how to apply the acquisition method, we would prefix that the acquisition method only applies to business combinations under common control that affect non-controlling shareholders of the receiving company.

Due to this participation of third parties, we would expect the consideration paid to be priced at arm's length. In addition, many jurisdictions have legal requirements and regulations that are designed to protect the interests of minorities in the theoretical case of a transfer of resources ('overpayment') from the receiving company (with non-controlling shareholders) to the transferring company (i.e. distribution from equity), so that this case is highly unlikely in practice.

We would also deem the contrasting case of an 'underpayment' in the sense of a contribution to equity, which would represent a transfer of resources from the transferring company to the receiving company (with non-controlling shareholders benefiting from this), to be very unlikely. Therefore, in our opinion, there is no need for requirements for both scenarios. Furthermore, we think that developing such requirements would imply the need for a cost- and effort-intensive analysis of whether an overpayment or underpayment may have occurred, which would be burdensome for companies and would not be justified.

Having said that, in case that the IASB does intend to go forward with the development of requirements, we would advocate for symmetrical recognition, in both cases with a recognition of the difference in equity.

We do not agree with the IASB's expectation that in case of a distribution (Question 5(a)), 'it [the overpayment] is addressed through subsequent testing of goodwill for impairment' (DP 3.11). We think that the current requirements pertaining goodwill allocation would regularly enable companies to allocate the acquisition to a CGU with pre-existing headroom, so that the acquisition may be shielded from impairment in subsequent tests. In addition, we think that the costs for an impairment test would also be comparable to the costs that would arise for quantifying an overpayment (for presentation as a distribution from equity).

In case of a contribution to equity (Question 5(b)), we agree with the IASB´s preliminary view to recognise any excess fair value of the identifiable acquired assets and liabilities over the consideration paid as a contribution to equity, not as a bargain purchase gain in the statement of profit or loss, when applying the acquisition method to a business combination under common control. Furthermore, when a contribution to equity is identified, we think the receiving company should be required to perform a reassessment, as provided for by IFRS 3.36 regarding bargain purchase gains, as the economic justifications for a bargain purchase gain occurring in a business combination (information asymmetries, forced sales, etc.) are not applicable in the case of a business combination under common control.

We did not identify any other need for special requirements for the receiving company on how to apply the acquisition method to business combinations under common control, as we think that the acquisition method should be applied as set out in IFRS 3 (Question 5(c)).

Question 6

Paragraphs 4.10–4.19 discuss the Board's preliminary view that, when applying a book-value method to a business combination under common control, the receiving company should measure the assets and liabilities received using the transferred company's book values.

Do you agree with the Board's preliminary view? Why or why not? If you disagree, what approach do you suggest and why?

Question 7

Paragraphs 4.20–4.43 discuss the Board's preliminary views that:

(a) the Board should not prescribe how the receiving company should measure the consideration paid in its own shares when applying a book-value method to a business combination under common control; and

(b) when applying that method, the receiving company should measure the consideration paid as follows:

(i) consideration paid in assets — at the receiving company's book values of those assets at the combination date; and

(ii) consideration paid by incurring or assuming liabilities — at the amount determined on initial recognition of the liability at the combination date applying IFRS Standards.

Do you agree with the Board's preliminary views? Why or why not? If you disagree, what approach do you suggest and why?

The ASCG agrees with the preliminary views that the IASB should not prescribe how the receiving company should measure the consideration paid in its own shares when applying a book-value method to a business combination under common control (Question 7(a)). We also agree with the IASB that the reporting of components within a reporting company´s equity and the measurement of issued shares for the purpose of that reporting are often affected by national requirements and regulations and are generally not prescribed in IFRS Standards.

Additionally, we agree that when applying a book-value method, the receiving company should measure the consideration paid in assets at the receiving company's book values of those assets at the combination date and the consideration paid by incurring or assuming liabilities at the amount determined on initial recognition of the liability at the combination date applying IFRS Standards (Question 7(b)).

Hinweis: In der Öffentlichen Diskussion soll zudem erfragt werden, ob noch andere Arten von Gegenleistungen (bspw. ein *business*) in der Praxis vorkommen und dementsprechend regelungsbedürftig sein könnten.

Question 8

Paragraphs 4.44–4.50 discuss the Board's preliminary views that:

(a) when applying a book-value method to a business combination under common control, the receiving company should recognise within equity any difference between the consideration paid and the book value of the assets and liabilities received; and

(b) the Board should not prescribe in which component, or components, of equity the receiving company should present that difference.

Do you agree with the Board's preliminary views? Why or why not? If you disagree, what approach do you suggest and why?

The ASCG agrees with the IASB´s preliminary views that, when applying a book-value method to a business combination under common control, the receiving company should recognise within equity any difference between the consideration paid and the book value of the assets and liabilities received (Question 8(a)) and that the Board should not prescribe in which component, or components, of equity the receiving company should present that difference (Question 8(b)).

In our opinion, a difference between the consideration paid and the book value of the assets and liabilities received can arise from a variety of factors (as detailed by the IASB in DP 4.45), so that various components of equity could be appropriate for the recognition of individual components of that difference. As disaggregating these components would likely be costly and complex, we support the recognition of the whole difference within equity. Based on that, and due to the presentation of components of equity often depending on national laws, regulations or other requirements in particular jurisdictions, the IASB should not prescribe in which component, or components, of equity the receiving company should present that difference.

Question 9

Paragraphs 4.51–4.56 discuss the Board's preliminary view that, when applying a book-value method to a business combination under common control, the receiving company should recognise transaction costs as an expense in the period in which they are incurred, except that the costs of issuing shares or debt instruments should be accounted for in accordance with the applicable IFRS Standards.

Do you agree with the Board's preliminary view? Why or why not? If you disagree, what approach do you suggest and why?

We agree with the preliminary view that, when applying a book-value method to a business combination under common control, the receiving company should recognise transaction costs as an expense in the period in which they are incurred, except that the costs of issuing shares or debt instruments should be accounted for in accordance with the applicable IFRS Standards.

When undertaking a business combination under common control, companies might incur transaction costs, such as advisory, legal, accounting, valuation and other professional fees and the costs of issuing shares or debt instruments. These potential transaction costs are identical to the potential transaction costs when undertaking a 'regular' business combination. Therefore, the IASB´s rationale for the requirements of IFRS 3 should also apply to transactions costs when undertaking a business combination under common control. Specifically, that transaction costs are not part of the exchange between the buyer and the seller of the business, rather, they are separate transactions in which the buyer pays for services received. Accordingly, the costs of those services received and consumed during the period should be recognised as expenses in the period in which they are incurred, except that the costs related to the issue of debt or equity instruments should be recognised in accordance with IAS 32 *Financial Instruments: Presentation* and IFRS 9 *Financial Instruments*.

Question 10

Paragraphs 4.57–4.65 discuss the Board's preliminary view that, when applying a book-value method to a business combination under common control, the receiving company should include in its financial statements the assets, liabilities, income and expenses of the transferred company prospectively from the combination date, without restating pre-combination information.

Do you agree with the Board's preliminary view? Why or why not? If you disagree, what approach do you suggest and why?

The ASCG generally agrees with the Board's preliminary view that, when applying a book-value method to a business combination under common control, the receiving company should include in its financial statements the assets, liabilities, income and expenses of the transferred company prospectively from the combination date, without restating pre-combination information.

While we agree with the IASB´s conclusion "that the benefits of information provided by a retrospective approach may be limited and may not outweigh the costs of providing that information" (DP 4.62), our main argument against applying a retrospective approach is that it would provide a picture of a group in a period when that group did not exist. Conceptually, we thus identified no reason to deviate from the requirements of IFRS 3 for 'regular' business combinations.

We would like to point out though, that related issues should be taken into account. This refers, for example, to comparative periods, as only the values of the receiving company would be shown for previous periods. In addition, pre-combination information could possibly be required in some jurisdictions on the basis of other laws and regulations (e.g. EU Regulation 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market). This may justify granting companies an option to apply a retrospective approach, so that companies in such jurisdictions would not, in effect, be forced to apply both approaches.

Question 11

Paragraphs 5.5–5.12 discuss the Board's preliminary views that for business combinations under common control to which the acquisition method applies:

(a) the receiving company should be required to comply with the disclosure requirements in IFRS 3 *Business Combinations*, including any improvements to those requirements resulting from the Discussion Paper *Business Combinations—Disclosures, Goodwill and Impairment*; and

(b) the Board should provide application guidance on how to apply those disclosure requirements together with the disclosure requirements in IAS 24 *Related Party Disclosures* when providing information about these combinations, particularly information about the terms of the combination.

Do you agree with the Board's preliminary views? Why or why not? If you disagree, what approach do you suggest and why?

We agree with the preliminary view that, for business combinations under common control to which the acquisition method applies, the receiving company should be required to comply with the disclosure requirements in IFRS 3 *Business Combinations*, including any improvements to those requirements resulting from the Discussion Paper *Business Combinations—Disclosures, Goodwill and Impairment* (Question 11(a)). We think that these business combinations under common control are similar to 'regular' business combinations covered by IFRS 3 and, therefore, similar information about these transactions should be provided.

We also generally agree with the IASB´s intention to provide additional application guidance on how to apply those disclosure requirements together with the disclosure requirements in IAS 24 *Related Party Disclosures* when providing information about these combinations, particularly information about the terms of the combination (Question 11(b)). We would like to emphasise, though, that this application guidance should only be provided to help companies apply existing disclosure requirements and that it must be ensured that thereby no additional disclosure requirements are imposed.

Question 12

Paragraphs 5.13–5.28 discuss the Board's preliminary views that for business combinations under common control to which a book-value method applies:

(a) some, but not all, of the disclosure requirements in IFRS 3 *Business Combinations*, including any improvements to those requirements resulting from the Discussion Paper *Business Combinations—Disclosures, Goodwill and Impairment*, are appropriate (as summarised in paragraphs 5.17 and 5.19);

(b) the Board should not require the disclosure of pre-combination information; and

(c) the receiving company should disclose:

(i) the amount recognised in equity for any difference between the consideration paid and the book value of the assets and liabilities received; and

(ii) the component, or components, of equity that includes this difference.

Do you agree with the Board's preliminary views? Why or why not? If you disagree, what approach do you suggest and why?

The ASCG agrees with the preliminary view that, for business combinations under common control to which a book-value method applies, some, but not all, of the disclosure requirements in IFRS 3 *Business Combinations*, including any improvements to those requirements resulting from the Discussion Paper *Business Combinations—Disclosures, Goodwill and Impairment*, are appropriate (Question 12 (a)).

As we see it, the DP represents an early stage of the IASB´s considerations of business combinations under common control, as the IASB has not fully developed the book-value method and feedback of constituents to the DP has not yet been considered. Therefore, it is inherently difficult to evaluate potential details of disclosures. However, we welcome the IASB´s preliminary assessment that various disclosure requirements of IFRS 3 should not be required when a book-value method is applied.

With regard to the disclosures intended, we are concerned that the requirement of 'aggregate information for individually immaterial combinations that are material collectively' (paragraph B65 of IFRS 3) could be complex and burdensome to fulfil for companies. This would apply especially to business combinations under common control that are preceded by (possibly several) preparatory acquisitions and/or restructuring steps. If these preparatory measures were also covered by the disclosure requirement, plenty of complexity could arise, but at least a reversal of the burden of proof would be installed, so that companies would have to prove the immateriality of the preparatory measures - possibly at great effort and expense.

Regarding pre-combination information, we generally agree with the preliminary view that the IASB should not require the disclosure of pre-combination information (Question 12(b)). But, as stated in our answer to Question 10, pre-combination information could possibly be required in some jurisdictions on the basis of other laws and regulations. This may justify granting companies an option to apply a retrospective approach, so that companies in such jurisdictions would not, in effect, be forced to apply both approaches.

Lastly, we agree with the preliminary view that the receiving company should disclose the amount recognised in equity for any difference between the consideration paid and the book value of the assets and liabilities received; and the component, or components, of equity that include(s) this difference (Question 12(c)). We consider this information to be relevant to users.