Federation of European Accountants

Roger Marshall
Acting President of EFRAG Board
EFRAG
Square de Meeûs 35
1000 Brussels

Sent by email:
Commentletters@efrag.org

Brussels, 20 January 2016

Subject: FEE comments on EFRAG's Draft Comment Letter on the IASB's ED *Applying IFRS 9 Financial Instruments with IFRS 4 Insurance contracts*

Dear Mr Marshall,

(1) FEE (the Federation of European Accountants, www.fee.be) is pleased to provide you below with its comments on the letter in reference above.

(2) We would like to start by reiterating our full support for an international solution for issues relating to the misalignment of the effective dates between IFRS 9 and the new standard on insurance contacts as a desirable outcome; therefore we welcome the IASB's efforts trying to resolve this matter.

(3) FEE also acknowledges that, because of the complexity and urgency of the issue to be resolved and because any solution will be of a temporary nature, it cannot be expected to be perfect. With this in mind, we support the two alternatives as proposed by the IASB, albeit with suggestions of modifications for the predominant activity test, as temporarily acceptable solutions to address the concerns raised by different constituents.

(4) We explicitly state our support for the temporary exemption from applying IFRS 9 as in our opinion it provides a comprehensive solution compared to the overlay approach which only addresses any accounting mismatches and resulting temporary volatility in the profit or loss account. Having said that, we also believe that some entities (especially financial conglomerates) may welcome the overlay approach to address mismatch concerns with respect to their financial assets backing insurance activities.

(5) In our view the main principle of the overlay approach is sufficiently well defined in the ED. We also support the IASB's proposal on the scope of the overlay approach. We agree that the scope should not be limited only to those assets that are contractually linked to insurance liabilities, but it should encompass those that are designated as relating to contracts within the scope of IFRS 4 (as proposed by the IASB). In our view, any further intent of clarification may result in unintended limitations, due to different circumstances in different jurisdictions. In addition we support the IASB's conclusions on the different presentation alternatives of the overlay approach, as the information will be made available for users in the disclosure requirements as presented in the ED.

(6) While we support the concept of determining the scope of any temporary exemption by way of a predominance test, we believe that the test as proposed by the IASB should be refined. In our view the

objective of the ED should ensure that those financial instruments that do not relate to insurance contracts and for which it is expected to be a significant impact from implementing IFRS 9 are accounted under IFRS 9. With this in mind, we disagree with the conclusion in paragraph BC64 of the ED, where the IASB proposes that a simpler approach should be used to determine whether an entity is eligible to use the temporary exemption from applying IFRS 9. Instead we propose two adjustments to the way that the predominant test is described in the ED:

(7) Liabilities that are backed by assets that are reported at fair value through profit or loss already under IAS 39 (for which there will be no change under IFRS 9) should be excluded from the calculation;

(8) The denominator should only reflect those liabilities that result from obligation with customers, or in other words to eliminate in the denominator those liabilities that are not directly related to insurance contracts. These include pensions, taxes, deferred taxes, subordinate loans or to some extend derivatives.

(9) Our preferred solution would be to adjust the calculation as proposed above and use an even higher threshold than the ED is proposing for an entity to be eligible to use the exemption from applying IFRS 9. Having said that, we would not oppose to another solution that could address this matter, for instance the one suggested by EFRAG.

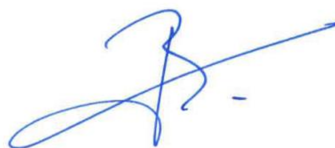
(10) Finally, we strongly agree with the IASB's conclusion that any temporary exemption from applying IFRS 9 should be temporary and that it should expire within a reasonable short period of time. Upon finalisation of the new insurance standard, we propose to the IASB to readjust the availability of both approaches so that it gets aligned with the effective date of the new insurance standard. This would ensure that any exemption from applying IFRS 9 would be a temporary one.

We attach to this letter our comment letter to the IASB where you can find our specific responses to the IASB's questions and we also enclose in the appendix our responses to specific questions that EFRAG asked its constituents in its Draft Comment letter.

We hope that our comments are helpful in the process of finalising the EFRAG Comment Letter to the IASB on the ED on IFRS 4.

For further information on this letter, please contact Pantelis Pavlou, Manager, from the FEE Team on +32 2 2 893 33 74 or via e-mail at pantelis.pavlou@fee.be.

Kind regards,



Petr Kriz
FEE President

Olivier Boutellis-Taft
FEE Chief Executive

Encl. Appendix: FEE response to EFRAG's specific questions included in its draft comment letter to the IASB on the IASB's Exposure *Draft Applying IFRS 9 Financial Instruments with IFRS 4 Insurance Contracts (Proposed amendments to IFRS 4)*

Attached: FEE Comment letter on IASB Exposure Draft *Applying IFRS 9 Financial Instruments with IFRS 4 Insurance Contracts (Proposed amendments to IFRS 4)* (ED/2015/11)

Appendix: FEE's response to EFRAG's specific questions included in its draft comment letter to the IASB on the IASB's Exposure Draft *Applying IFRS 9 Financial Instruments with IFRS 4 Insurance Contracts (Proposed amendments to IFRS 4)*

(11) FEE includes its answers to specific questions that EFRAG raises in its Draft Comment letter to the IASB. We are not able to provide information regarding the questions on costs and other practical matters of the application of the two alternative approaches.

(12) We also attach to this letter the FEE comment Letter to the IASB on this Exposure Draft where you can find our responses to the IASB's questions.

Questions on paragraphs 42-43 (page 13)

42. Do you agree that the optionality in presentation should be limited to Alternative A as stated in paragraph 28 above?

43. Referring to paragraph 34 above, do you consider that the amendments to IFRS 4 which may arise due to the ED should include further explanation about the presentation of the overlay adjustment in OCI?

(13) In line with our comments to the IASB on this matter, we suggest not to require a limitation of the presentation alternatives of the overlay approach. We understand that the IASB has already discussed the different alternatives for presentation of the overlay approach. As this approach would be a temporary solution for the misalignment of the effective dates, we would find any of the different alternative presentations as suggested in the ED acceptable, since comparability is possible through disclosures required.

(14) We would also support the IASB's decision not to elaborate further on the overlay approach at this stage. We believe that the main principle is sufficiently well explained and adequate at this stage, bearing in mind the limited period of time for its use, the urgency of the issue, the risk for unintended consequences of amendments due to different circumstances in different jurisdictions, and the expected limited use of this approach by preparers.

Questions on paragraphs 70-78 (page 18)

Widened predominance criterion:

70. How restrictive is the assessment of predominance as proposed by the IASB? Please provide quantitative evidence.

71. Would the proposal in paragraphs 57-64 above achieve the objectives highlighted by EFRAG (i.e. avoid a breach in level playing field in the insurance sector and inclusion of banking activities)? If not, what formula would you recommend for the assessment of predominance, and why?

72. Do you think that the proposal above leads to a predominance criterion that is practical, auditable and comparable? Please explain.

73. Taking into account the widening of the predominance criterion, do you agree that the quantitative threshold should be at a level that is substantially higher than three-quarters of an entity's total liabilities? Please explain.

(15) We agree in principle with EFRAG that the predominant criterion should be widened and agree with the objective.

(16) In our letter to the IASB we propose areas of adjustments on the main objective of the ED, as explained in paragraph B9 to ensure that those financial instruments that do not relate to insurance contracts and for

which it is expected to be a significant impact from implementing IFRS 9 are accounted under IFRS 9. To address this, we propose also amendments to the predominant activity test. We propose the following:

(17) Liabilities that are backed by assets that are reported at fair value through profit or loss already under IAS 39 (for which there will be no change under IFRS 9) should be excluded from the calculation;

(18) The denominator should only reflect those liabilities that result from obligation with customers, or in other words to eliminate in the denominator those liabilities that are not directly related to insurance contracts. These include pensions, taxes, deferred taxes, subordinate loans or to some extend derivatives.

(19) Our preferred solution would be to adjust the calculation as proposed above and use an even higher threshold than the ED is proposing for an entity to be eligible to use the exemption from applying IFRS 9. Having said that, we would not oppose to another solution that could address this matter, for instance the one suggested by EFRAG.

The "regulated entity" criterion:

74. Do you agree with the arguments in paragraphs 65-69 above? If you do not and still believe that the regulated criterion has a role to play, please explain why and how it would work.

75. Is the regulatory consolidation scope always identical to the IFRS consolidation scope? If not, please explain the difference(s).

(20) We do not agree with EFRAG's proposal to use the "regulated entity" criterion to define whether an entity should be eligible to use the temporary exemption. As a matter of facts the regulated entity does not necessarily reflect the substance of the economic transactions. For example in the case that an insurance group invests through the use of an investment fund, that special purpose entity may not be regulated as an insurance entity; hence the insurer would not be able to use the temporary exemption for the assets held in such a fund, irrespective if it issues contracts within the scope of IFRS 4 and the assets held in the fund actually back IFRS 4 insurance liabilities. Another example is those entities that might be regulated as insurance entities without issuing a material number of contracts within the scope of IFRS 4.

General:

76. EFRAG currently considers that eligibility for the temporary exemption of IFRS 9 requires that entities/activities issue material insurance contracts within the scope of IFRS 4. Do you agree with this materiality threshold? If not, what do you suggest instead? Please explain.

77. Is this condition necessary when relying on the "regulated entity" criterion? What are the circumstances in which an entity would be supervised by an insurance regulator and not issue insurance contracts within the scope of IFRS 4? What are the effects of changing from IAS 39 to IFRS 9 to those entities?

78. If you consider that eligibility for the temporary exemption from applying IFRS 9 should not be based on predominance or on regulation, what principle(s) should be applied, and how would you test these principles?

(21) In general we believe that the approach for eligibility criteria as in the ED is acceptable for the temporary exemption from applying IFRS 9, with the exception of the calculation of the predominance activity test as explained earlier in the letter.

(22) In particular we express our support to the view that the exemption should apply to those entities that issue material insurance contracts that are within the scope of IFRS 4. In our view, this is key to ensure that the scope of is correctly defined.

Question on paragraphs 88-89 (page 20)

88. Should an entity assess its predominant activity at the reporting entity level or below the reporting entity level or both? Please explain your view.

89. In your view, how can the temporary exemption from applying IFRS 9 below the reporting entity level be determined in a way that ensures the eligibility of relevant entities and allows for comparability between entities? Please explain your view.

(23) In the case that the predominance test is widened with a higher threshold (as described in paragraphs 5-7 of this appendix) there is a risk that significant other activities, and especially banking activities, are captured in the scope of the deferral of IFRS 9. In order to avoid this risk, we would agree with EFRAG's proposals for a waterfall approach including the assessment of the eligibility below the reporting entity level if the entity fails passing the predominance test at the reporting entity level.

(24) Even though we can understand the IASB's concerns related to applying the temporary exemption from applying IFRS 9 as explained in Appendix B of the ED, we believe that as long as the main principles are in place, the benefits for ensuring that any banking activities are reported under IFRS 9 would outweigh the risks associated with applying two different accounting standards in the same reporting entity.

(25) We believe that EFRAG's proposal for an approach below entity level could be a workable solution that the IASB could consider in order to provide a practical solution for financial conglomerates with insurance activities. This is because we consider it important to offer some level playing field to those companies having significant insurance activities carried out under IFRS 4.