Date

3 October 2008

Le Président

Fédération des Experts Comptables Européens AISBL

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Dear Ms Eastman,

**Re: Draft Document IASB Expert Advisory Panel: "Measuring and disclosing the fair value of financial instruments in markets that are no longer active"**

1. FEE (Fédération des Experts Comptables Européens - Federation of European Accountants) appreciates having the opportunity to comment on the Draft Document "Measuring and disclosing the fair value of financial instruments in markets that are no longer active" (the "Document"), despite the very short comment period.

2. We recognise that the IASB has to provide a response to the call for action included in the Financial Stability Forum recommendations in their report "Enhancing Market and Institutional Resilience". The financial turmoil is a global phenomenon that calls for a global reaction. In this respect, we acknowledge the work undertaken by the IASB Expert Advisory Panel and welcome the Draft Document as useful educational guidance (see also our observations under point 6 of this letter). With the market events of the past few weeks the observations of the Expert Advisory Panel might in certain cases even have been further developed.

3. We agree that it is important that investors receive sufficient transparent information on how instruments are valued in order to strengthen market confidence. The appropriate application of the measurement and disclosure requirements of IFRS are important in this respect.

4. The Document is about **how** to determine fair value in illiquid markets and does not address the questions **when** to apply fair value. A debate would be needed to define "when and what" to fair value in the form of criteria and definition of possible measurement bases. The Document should not be used nor seen to construe a means of expanding the use of fair value in financial reporting. FEE supports a mixed attribute measurement model as set out in our various earlier letters.

5. We wonder whether the illustrations of the definition of forced/distressed sales mentioned in the Document sufficiently encompass examples of situations currently taking place. For example, one could question whether transactions entered into by entities that have severe liquidity problems or are under a liquidation process should be considered as normal transactions. We are unsure whether these situations are captured by the indicators listed on page 4 of the Document.

6. We note the very short deadline for comments of two weeks and assume that this is inherent in the process to provide timely guidance to companies before the 2008 year-end. It is important that the educational guidance is published prior to the 2008 financial statements year-end in order to provide timely guidance to preparers, auditors, users and other stakeholders. Market participants can have regard to the educational guidance in the preparation of financial statements for the 2008 reporting season. We believe that the IASB Expert Advisory Panel Document will have such authority by its mere existence.

*Guidance versus Interpretation*

7. We note that the introduction to the Document indicates that it "provides useful information and educational guidance for measuring and disclosing fair values and does not establish new requirements for entities applying IFRS or any other GAAP". However, the related press release speaks about "possible enhancements to the guidance on valuation and disclosures of financial instruments and on disclosures when markets are no longer active". We are strongly of the opinion that the Document should be limited to providing educational guidance in order not to undermine the principles-based nature of IFRS. The Panel should also guard against crossing the border between guidance and interpretations. Accordingly, we believe the Document should not provide interpretations of IAS 39 since interpretations should only be issued respecting the related appropriate due process.

8. We support the statement made in the introduction of the Document: "These examples do not present the only approach to measuring and disclosing fair values, nor do they represent mandatory valuation processes and disclosures". The text should explicitly state that the Document neither provides new guidance nor interpretations of IAS 39 or IFRS 7 or similar GAAP and underline that it does <u>not</u> provide the only approach to reach measurable fair value. In particular, further clarification is required that the disclosures set out in part 2 of the Document are suggestions clarifying existing disclosures and are by no means obligatory. Disclosures need to be appropriate and selective.

9. As set out in paragraph 7 of this letter, it is crucial to us that the Document does not provide interpretations of IAS 39. The text included in the Document on active versus inactive markets implies that an active market or market price exists even though there is only one single transaction. This goes beyond the guidance included in IAS 39.48A: "The best evidence of fair value is quoted prices in an active market. If the market for a financial instrument is not active, an entity establishes fair value by using a valuation technique […]", where no reference is made to a single transaction.

10. The last paragraph under "changes in own credit" on page 13 of the Document constitutes another example where it seems to go beyond IAS 39 by providing an interpretation on credit adjustments when valuing derivatives. In particular the first sentence of the paragraph using the word "inconsistency" gives it an apparent interpretation status. We suggest that this sentence is deleted from the text.

*Active Market*

11. We agree that, in establishing fundamental values and in the use of valuation models, current (market) information needs to be used as input for the valuation of the instrument.

12. We question whether the current Document goes beyond IAS 39 when indicating on page 2 of the summary that "even when markets are inactive, a current transaction price for […] normally provides the best evidence of fair value" or on pages 3 and 4 that "the issue to be addressed […] Regardless of the level of market activity, a current transaction price for the same or similar instrument normally provides the best evidence of fair value". We believe that this last sentence could be viewed as contradicting IAS 39's indication that if a market is inactive, an entity measures fair value using a valuation technique. While we agree that a chosen valuation technique should make maximum use of market inputs and incorporate all

factors that market participants would consider in setting a price, we believe that this is different from asserting that transaction prices in inactive markets provide the best evidence of fair value. Another reason for considering this assertion as problematic is that a price observed for a similar instrument would generally need to be adjusted before being considered as representing fair value for the instrument concerned and therefore we disagree that in inactive markets a current transaction price for a similar instrument normally provides the best evidence.

13. We agree in general with the discussion on measuring fair values in markets that are no longer active but are of the opinion that the impairment issue is insufficiently addressed.

*Other Matters*

14. The first sentence of the last paragraph on page 13 of the Document states that there is inconsistency in practice about inclusion of own credit adjustment when fair valuing derivatives. The use of the word "inconsistency" gives the impression that the underlying principle is not clear enough in IAS 39 and that an interpretation is needed on this item. We suggest replacing this first sentence by a reminder stating that fair valuing a derivative includes, as this is the case for all financial instrument issued, adjustment for own credit risk

15. Even if we agree conceptually with the idea developed in the last sentence of the paragraph under figure 4 on page 13 of the Document: "Thus, although some collateralised liabilities might not be subject to significant credit risk, the existence of collateral might affect the credit risk of other liabilities", we suggest that the sentence be clarified as there is no easy way in practice to measure the credit adjustment which would be required between collateralised liabilities and other liabilities issued that are not collateralised.

16. The last two sentences of the first paragraph under "Changes in Models and Assumptions over time" on page 16 of the Document, "However, as models are refined, it is necessary to use these models to measure fair value. Not doing so would be contrary to the objective of fair value" are expressed in a negative form and as such seem to us to be too restrictive. Change to models and assumptions should be made in order to adapt themselves to changes in market conditions and provide the best estimate of fair value. The model should not be used unless there is evidence that it provides the appropriate estimate.

*Disclosures*

17. We see some practical difficulties in trying to incorporate the suggested disclosures and ask the Panel to carefully consider the following issues:

- How will this guidance be incorporated within the current IFRS 7?
- As long as the guidance is not included in IFRS 7, what is its status?
- Some information mentioned is very detailed and difficult to communicate for example the use of broker quotes;
- The auditability of the disclosures should be considered;
- Disclosures are largely US GAAP, but would require substantial changes to the systems of non-US companies.

We would be pleased to discuss with you any aspect of this letter that you may wish to raise with us.

Yours sincerely,

Jacques Potdevin
President

Ref: FRP/JP/SS-LF-SR