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Dear Mr Zalm, Ms Oyre,

Review of the constitution: Identifying issues for Part 2 of the Review

This is the International Banking Federation's ('IBFed') response to Part 2 of the IASCF's constitutional review. The members of IBFed are the banking associations of America, Australia, Canada, China, India, Japan, South Africa and the European Banking Federation. Our members represent every major financial centre and sit in every time zone. This worldwide reach enables the Federation to function as a key international forum for addressing legislative, regulatory and other issues of interest to the global banking industry.

We welcome the opportunity to comment on the second stage of the review having already written in support of the creation of a new Monitoring Group as proposed by the first stage of the review. We are pleased to note that this has now been created and that it will meet for the first time on 1 April 2009. The IBFed remains a firm supporter of IFRS and continues to believe that the IASB should be an independent standard-setting body. Below we set out our view that:

- Whilst welcome, the establishment of the Monitoring Group by itself is not a sufficient enhancement to the IASB's governance;
- The Monitoring Group must review the processes by which the Trustees discharge their governance responsibilities;
- The Trustees must consult annually on the IASCF's business plan, budget and forward looking agenda; and
- A robust fast track procedure for urgent amendments to IFRS should be quickly established.

The publication of the document is timely given the difficult dialogue which took place between the IASB and a broad range of its constituents in the third and fourth quarters of last year regarding amendments to IFRS in light of the financial turmoil. In our view, the difficulty of these discussions was exacerbated by the IASB's lack of accountability and flexibility. Whilst acceptable solutions were eventually found, the episode has, in our view, had the unfortunate consequence of damaging the IASB and diminishing the standing of IFRS in the minds of many.

That being said, we support the recommendation made by the G20 leaders in their declaration following the summit on financial markets and the world economy that 'the governance of the international accounting standard setting body should be further enhanced, including by undertaking a review of its membership, in particular in order to ensure transparency, accountability, and an appropriate relationship between this independent body and the relevant authorities'. We see this as a strengthening measure and recognition of the increasing importance of IFRS. In the first part of the review, the Trustees recognised that this increasing importance required the structure governing IFRS to evolve and that it was no longer appropriate or realistic to expect standards to be developed without the accountability which derives from public oversight. However, we are very clear in our minds that public oversight should not equate to public interference or the politicisation of accounting standards. The establishment of the Monitoring Group meets both of these imperatives and fulfils the G20's recommendation.

We see the establishment of the Monitoring Group, however, as only the first step towards enhancing the governance of the IASB. In our view, it is vital that this second part of the review results in the implementation of a number of measures to strengthen the IASB's due process and governance procedures. First among these should be a review, conducted by the Monitoring Group, of the processes by which the Trustees discharge their oversight responsibilities.

Albeit financial reporting serves a purpose distinct from the regulatory regime, we believe that financial reporting and broader regulatory objectives are aligned and that the IASCF's constitution and governance arrangements need to reflect the IASB's place in the international regulatory framework.

The creation of a 'fast track' procedure for considering amendments to IFRS must also be an urgent priority. The inability of the IASB to respond to the effect that some of the provisions of IAS 39 were having on the banking industry in the exceptional market circumstances which prevailed in the latter part of 2008 was directly responsible for the unsatisfactory politicisation of the standard-setting process which took place in October 2008. It is in the interests of both the IASB and its constituents that such a situation does not arise again. We believe the development of a process to identify and resolve urgent issues in future could help minimise this possibility. We expand on how we believe such a system could work in our answer to question 11. Similarly, the IASB's agenda setting procedure and prioritisation process needs to be reviewed; we make our suggestions in response to question 9. The importance of both of these issues is such that we do not believe it is acceptable to delay their implementation until June 2010.

In future, we also believe that the objectives of the organisation need to be focused much more centrally on the financial reporting issues of concern to the world's capital markets. Whilst efforts to develop standards for private entities and the public sector are worthy we believe they must rank as secondary priorities. This is especially true in the short and medium term, when much attention will need to be focussed on responding to the current financial turmoil. In this regard, we encourage the IASB to continue to engage with the other international regulatory bodies such as the Financial Stability Forum and Basel Committee.

We would also like to see a more evidence based approach to the development of standards as in our view it is often unclear as to why the Board has taken a project forward. In the case of amendments to existing standards, we would like to see fully reasoned, evidence based explanations of the purpose of proposed amendments. Too often, the Board rejects, without sufficient analysis or explanation, views expressed by a large majority of respondents to exposure drafts in instances where commentators favour approaches other than those first presented by the Board. In this context, we would also believe that field-testing should be conducted within a more structured framework which includes the publication of the results.

Finally, we believe that the Trustees must take a more active role conducting post implementation assessments of the costs and benefits of standards. It is inappropriate in our view for the same body which develops standards to judge their cost-benefit.

Objectives of the organisation

1. The constitution defines the organisation's primary objective in the following manner:

To develop, in the public interest, a single set of high quality, understandable and enforceable global accounting standards that require high quality, transparent and comparable information in financial statements and other financial reporting to help participants in the world's capital markets and other users make economic decisions

In fulfilling that objective, the organisation is:

To take account of, as appropriate, the special needs of small and medium-sized entities and emerging economies

Does the emphasis on helping 'participants in the world's capital markets and other users make economic decisions', with consideration of 'the special needs of small and medium-sized entities and emerging economies', remain appropriate?

We believe that the primary emphasis of the Constitution should be the needs of the world's capital markets. Whilst the project to develop a standalone standard for small and medium-sized entities will have benefits in terms of cementing the place of IFRS at the heart of financial reporting, it must be considered a secondary priority at present. The financial turmoil has raised a large number of hugely important issues which require the IASB's attention in the short and medium term. At the same time, there are major projects which require further consideration, such as insurance accounting, and the Conceptual Framework, which remains to be finalised. The ongoing convergence process raises the possibility of yet more projects to be added to the agenda.

2. In the opinion of the Trustees, the commitment to drafting standards based upon clear principles remains vitally important and should be enshrined in the Constitution. Should the Constitution make specific reference to the emphasis on a principles-based approach?

We believe the principles-based nature of IFRS to be one of its greatest merits. As such, we agree that a specific reference that standards should be principles-based should be enshrined in the Constitution.

3. **The Constitution and the IASB's *Framework* place priority on developing financial reporting standards for listed companies. During the previous review of the Constitution some commentators recommended that the IASB should develop financial reporting standards for not-for-profit entities and the public sector. The Trustees and the IASB have limited their focus primarily to financial reporting by private sector companies, partly because of the need to set clear priorities in the early years of the organisation. The Trustees would appreciate views on this point and indeed whether the IASB should extend its remit beyond the current focus of the organisation.**

We believe it is right that the priority should continue to be on developing standards for listed companies. In our view, the now nearly completed project to develop a stand-alone version of IFRS for Non Accountable Private Entities has diverted vital resources away from key priorities. Whilst an IFRS for non-listed entities is a worthwhile medium term aim; meeting the needs of the IASCF's broader constituency base and cementing the concepts underlying IFRS, it has been produced at a time when the IASCF's limited resources have often been stretched too thinly, delaying the completion of projects in the convergence process with US GAAP. We take a similar view of the development of standards for the not-for-profit sector and public sector.

When developing standards in future, we would also ask that the Board tries its utmost to meet its target for completion. The current work agenda seemingly includes a large number of projects where no discernable progress is being made. We would suggest that two years should be a more than sufficient timeframe in which to complete a project.

4. **There are other organisations that establish standards that are either based upon or have a close relationship with IFRSs. The IASC Foundation already recognises the need to have close collaboration with accounting standard-setting bodies. Should the Constitution be amended to allow for the possibility of closer collaboration with a wider range of organisations, whose objectives are compatible with the IASC Foundation's objectives? If so, should there be any defined limitations?**

We believe that the financial turmoil has demonstrated the need for international standard setters and regulatory bodies to work much more closely together. To us, this means that not only should the IASB continue its collaboration with accounting standard-setting bodies but should expand this to include the Financial Stability Forum, the Basel Committee on Banking Supervision and International Organisation of Securities Commissions. The rationale for doing so is clear, there are numerous pervasive issues, such as pro-cyclicality, which require a joined-up approach to ensure suitable solutions are found and implemented. We are firm supporters the process put in place to implement the recommendations identified by the G7 and Financial Stability Forum to enhance the resilience of the international regulatory framework and believe that the IASB should continue to participate in this process going forward.

Governance of the organisation

- 5. The first part of the review of the constitution proposed the establishment of a formal link to a Monitoring Group. Under this arrangement, the governance of the organisation would still primarily rest with the Trustees. Although the first part of the review has not yet been completed, the Trustees would welcome views on whether the language of Section 3 should be modified to reflect more accurately the creation of the Monitoring Group and its proposed role.**

In response to the first part of the constitution review, we were supportive of the proposals for a Monitoring Group, seeing its creation as essential to ensure the long-term credibility of IFRS. We continue to hold this position. In our view, the growing importance of IFRS to world capital markets makes public oversight and accountability vital. The Monitoring Group must robustly hold the Trustees to account and ensure the rigorous application of the constitution. In the first instance, we suggest the Monitoring Group should review the way in which the Trustees currently discharge their oversight responsibilities and make recommendations on how this might be improved.

We would add that the financial turmoil, and the political response to it, has vividly demonstrated the need for the public accountability that the Monitoring Group will provide. To us, the Monitoring Group provides the mechanism necessary to satisfy the G20's demand that there is an 'appropriate relationship' between the IASB as an independent body and the relevant public authorities. We note that the Monitoring Group is to meet for the first time on 1 April 2009 and welcome the decision to include the Chairman of the Basel Committee on Banking Supervision, but we regret that this organization has only a non-voting member status in this Group of inter-governmental authorities.

Trustees

- 6. The Trustees are appointed according to a largely fixed geographical distribution. Is such a fixed distribution appropriate, or does the current distribution need review?**

We are content with the current arrangements.

- 7. Sections 13 and 15 set out the responsibilities of the Trustees. The intention of these provisions is to protect the independence of the standard-setting process while ensuring sufficient due process and consultation – the fundamental operating principle of the organisation. In addition to these constitutional provisions, the Trustees have taken steps to enhance their oversight function over the IASB and other IASC Foundation activities. The Trustees would welcome comments on Sections 13 to 15, and more generally on the effectiveness of their oversight activities.**

We believe that part (c) of Section 15 should be amended to provide the Trustees with a role in reviewing the IASB's agenda. Please see our comments in response to question 9 for further details. As discussed in our opening comments above, we also believe that the Trustees should be responsible for conducting and publishing cost-benefit analyses of standards.

8. **The Trustees are responsible for ensuring the financing of the IASC Foundation and the IASB. Since the completion of the previous review of the Constitution, the Trustees have made progress towards the establishment of a broad-based funding system that helps to ensure the independence and sustainability of the standard-setting process.**

However, the Trustees have no authority to impose a funding system on users of IFRSs. The Trustees would welcome comments on the progress and the future of the organisation's financing.

We support the four principles for the funding of the IASC Foundation which were put in place last year and welcome the progress made by the Trustees towards establishing national funding regimes consistent with the principles above in a number of countries. A levy on public companies – such as that administered by the Financial Reporting Council in the UK and similar bodies in many other nations – is our preferred national funding system and we encourage the Trustees to promote this model.

International Accounting Standards Board

9. **Commentators have raised issues related to the IASB's agenda-setting process. The Constitution gives the IASB 'full discretion in developing and pursuing its technical agenda'. The Trustees have regularly reaffirmed that position as an essential element of preserving the independence of the standard-setting process. However, they would welcome views on the IASB's agenda-setting process and would appreciate it if, in setting out views, respondents would discuss any potential impact on the IASB's independence.**

In our view, the current agenda setting process is opaque and is responsible, in large part, for the disconnect between the IASB and its constituents. Whilst the current model does build in a certain level of consultation with the SAC, this is not sufficient to ensure that the agenda is fully reflective of constituents' priorities. We believe that the IASCF should be required to consult annually on its business plan, budget and forward looking agenda. We would hope and expect that this would lead to an open, constructive and interactive dialogue between the IASB and its constituents that would serve to minimise the prospect of heavy-handed interference later in the standard-setting process.

We comment on the need for a 'fast track' amendment procedure in our response to question 11 below.

10. **The Constitution describes the principles and elements of required due process for the IASB. The IASB's procedures are set out in more detail in the *IASB Due Process Handbook*. If respondents do not believe the procedures laid out in the Constitution are sufficient, what should be added? If respondents believe that the existing procedures require too much time, what part of the existing procedures should be shortened or eliminated? The Trustees would also welcome comments on recent enhancements in the IASB's due process (such as post-implementation reviews, feedback statements, and effect analyses) and on the *IASB Due Process Handbook*.**

We believe the procedures and policies set out in the *Due Process Handbook* are sufficient. The existence of high-quality due process procedures by themselves, however, is not enough to ensure the production of high-quality IFRSs. This requires the implementation of the procedures and it is this that we believe to be the weakness of the other arrangements. We hope that the creation of the Monitoring Group will rectify this and support its establishment on this basis.

We believe post-implementation reviews, feedback statements and effect analyses are all important for an effective standard setting process and for good regulation. As above, we hope that the Monitoring Group will ensure their continuing rigorous application.

11. Should a separate ‘fast track’ procedure be created for changes in IFRSs in cases of great urgency? What elements should be part of a ‘fast track’ procedure?

We believe it is vital that a robust ‘fast track’ procedure for introducing changes to IFRSs be urgently put in place for the small minority of issues which require immediate attention. In our view, this process should balance the need for the amendment to be introduced in an expeditious manner with that of proper due process and the need to consult constituents and the appropriate public authorities.

However, it is important that such a process only be used in appropriate circumstances. To our mind, indicators that an issue should be taken forward under the fast track process would include clear evidence that a well defined amendment was required to address a specific issue and broad agreement that a truncated period of due process is acceptable to constituents. To help identify issues which meet these criteria it is vital that the IASB takes proper heed of the views of its constituents expressed at outreach meetings and roundtables. We would point to the recent exposure draft on debt instruments as an example of an instance when these criteria were clearly not met.

We believe that the IASB, Monitoring Group, Trustees and SAC should each be empowered to identify issues for consideration under the fast track procedure. A decision on whether or not to take that issue forward under the accelerated procedure should then be at the unanimous agreement of the other bodies identified above. Once a solution has been identified and approved by the IASB, a due process document should be issued for review by constituents with a shortened comment period.

Standards Advisory Council

12. Are the current procedures and composition, in terms of numbers and professional backgrounds, of the Standards Advisory Council (SAC) satisfactory? Is the SAC able to accomplish its objectives as defined in Section 38?

We do not believe the current SAC arrangements are working as well as they should, although we do welcome the recent review of its membership.

Like other aspects of the constitutional framework, the arrangements for the SAC appear to provide a robust framework for engaging with constituents on paper. The reality, however, is that SAC meetings have been treated as little more than public education sessions, with Board and staff members providing generic updates on projects. In our view, there is little evidence to suggest that the SAC has had any real influence over the IASB’s agenda or work programme.

To rectify this, the Trustees must ensure that the current procedures for the SAC are properly enforced and that regard is taken of its views. As set out in our response to question 11, we also believe the SAC should have the power to recommend items to be considered under a ‘fast track’ amendment procedure.

13. Attached to this document are the terms of reference for the SAC, which describe the procedures in greater detail. Are there elements of the terms of reference that should be changed?

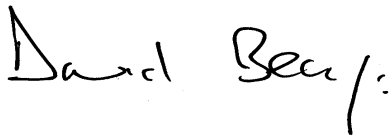
As above, we are conceptually happy with the terms of reference and the role played by the SAC but believe that they need to be more rigorously implemented.

Other issues

14. Should the Trustees consider any other issues as part of this stage of their review of the Constitution?

We have no further comments.

Yours sincerely

Handwritten signature of David Bell in black ink.

David Bell
Chairman

Handwritten signature of Sally Scutt in black ink.

Sally Scutt
Managing Director