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Tom Seidenstein
International Accounting Standards Board
30 Cannon Street
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Discussion Document, *Review of the Constitution—Public Accountability and the Composition of the IASB*

Dear Mr. Seidenstein:

We appreciate the opportunity to comment on the International Accounting Standards Committee Foundation's (IASCF's) Discussion Document, *Review of the Constitution—Public Accountability and the Composition of the IASB* (the "DD"). Since our adoption of IFRS approximately 10 years ago, we have watched with excitement as an increasing number of countries have recognized the benefits of IFRS—a set of high quality, understandable global accounting standards—and thus decided to mandate the adoption of IFRS in their respective jurisdictions. We believe that the US Securities and Exchange Commission's recent decision to eliminate accounting reconciliation requirements for foreign registrants using IFRS and to propose a formal plan for the eventual use of IFRS by all publicly listed companies in the US are key milestones on the path to complete global recognition of IFRS. In light of those events, we understand the need to consider how the structure and mandate of the IASCF and the IASB can be strengthened to ensure long-term viability and full recognition by public authorities. We have addressed the questions raised in the DD directly in the body of this letter.

Questions related to the Monitoring Group

Q1. Do you support the creation of a link to a Monitoring Group in order to create a direct link of public accountability to official institutions?

Yes, we support the creation of a link to a Monitoring Group to create a direct link of public accountability to official institutions. Independent standard setting and high quality accounting standards are based on the premise that they result in financial reporting that is transparent and understandable, faithfully reflecting an entity's economic position and results. Inherent to that premise is that such information maximizes the public good as it results in better economic decisions regarding the allocation of scarce capital resources. Therefore, we believe that independent standard setters have an important duty to all capital market participants to carry out their task with due care and prudence. We also believe that independent standard setters, given their responsibilities related to the public good, should be accountable for their actions to government organizations tasked with investor protection and oversight of capital markets growth, stability and function; namely securities regulators and other such organizations.

We expect that the establishment of a link to the Monitoring Group will strengthen the IASCF/IASB's legitimacy in national jurisdictions and the global capital markets, thus improving its long-term viability. We also expect that it may create a stronger framework on which potential solutions to the IASCF/IASB's long-term funding issue can be built.

While we support the creation of a link to the Monitoring Group, we have a number of concerns that we would like to see addressed. Those concerns are discussed in detail in our response to Q3 of the DD.

Q2. The proposals contemplate a Monitoring Group comprising representatives of seven public authorities and international organizations with a link to public authorities. While recognizing that the Monitoring Group is an autonomous body, the Trustees would welcome comments regarding the Monitoring Group's membership and whether other organizations accountable to public authorities and with an interest in the functioning of capital and other financial markets should be considered for membership.

We agree that the Monitoring Group should comprise representatives of public authorities and international organizations with a link to public authorities. However, that requirement is not clearly stated in the proposed amendments to the constitution. In addition, we feel that use of the term "link" in the phrase "international organizations with a link to public authorities" is too vague. We recommend that "link" be replaced with the term "controlled by." We think that term more clearly articulates the meaning of "link" in the context of the Monitoring Group's composition. In light of our concerns, we believe that Section 21 of the constitution should be amended as follows:

21 The Monitoring Group shall comprise representatives of public authorities and international organizations controlled by public authorities. Initially, the Monitoring Group shall comprise . . .

Because the Monitoring Group will develop its own charter and is independent of the IASCF, Sections 21 through 23 raise additional issues, specifically, those sections appear to obligate the Monitoring Group. As the Monitoring Group is independent, we do not believe that the IASCF constitution can obligate the Monitoring Group. However, we do believe that the Monitoring Group must meet certain minimum requirements to ensure that the IASCF's objectives of a link to public authorities are satisfied. Therefore, we believe that the constitution must be amended to set out a list of minimum requirements (our response to Q3 discusses that issue in more detail). In that context, we have the following concerns related to the Monitoring Group's membership.

We believe that Section 21 should be written as a minimum requirement. That is, given that IFRS is now used in over 100 jurisdictions, we believe that the Monitoring Group should not be limited to 7 seats. Given the global nature of IFRS, we think it would be prudent to consider whether the number of seats should be expanded to include 2 to 4 rotational seats for other jurisdictions. Nevertheless, we think that that is a matter that must be resolved by the Monitoring Group itself. We are concerned that if the Monitoring Group expands its membership beyond those 7 specified seats, one might argue that Section 21 is being violated. Therefore, we believe that the phrase "at a minimum" should be inserted after comprise, to be read as follows: Initially, the Monitoring Group shall comprise at a minimum . . .

The global economy and its capital markets are dependent on a sound and vibrant banking system. We believe that dependency should be recognized in the minimum composition requirements being proposed by the IASCF. While we acknowledge the expertise of the IMF and the World Bank, we believe that more is needed. We believe that the chairman of the board of directors of the Bank for International

Settlements (BIS) should be considered for inclusion. The BIS is an international organization which fosters international monetary and financial cooperation and serves as a bank for central banks.¹ This organization is controlled by central bank representatives from 55 countries. We believe that the inclusion of the BIS into the minimum composition would provide a critical viewpoint that may otherwise be missed.

Q3. The Trustees will remain the body primarily responsible for the governance of the organization and the oversight of the IASB. Their responsibility to a Monitoring Group will enable regulatory and other authorities responsible for the adoption of IFRSs to review the Trustees' fulfillment of their constitutional duties. Does the formulation of the Monitoring Group's mandate and the Trustees' reporting responsibilities, as described in the proposed Section 19, appropriately provide that link, while maintaining the operational independence of the IASC Foundation and the IASB?

As noted in our response to Q1, we support the creation of a link to public authorities through the Monitoring Group. However, as mentioned in Q3, Sections 18–23 of the constitution raise a number of important issues. The Monitoring Group will develop its own charter and is independent of the IASCF. In addition, the Monitoring Group and the IASCF will later agree a Memorandum of Understanding on their interaction. Sections 18–23 appear to obligate the Monitoring Group. Given the Monitoring Group's independence status, the IASCF constitution cannot obligate the Monitoring Group. However, we do believe that the Monitoring Group must meet certain minimum requirements to ensure that the IASCF's objectives of a link to public authorities are satisfied. Therefore, we recommend that Sections 18–23 be written in the form of requirements, for example:

18 A Monitoring Group that satisfies the requirements set forth in Sections 19–23 will provide a formal link . . .

In that context, we have the following concerns regarding the formulation of the Monitoring Group's mandate and the Trustees' reporting responsibilities.

By virtue of its authority to appoint the Trustees of the IASCF, the Monitoring Group will have substantial powers over the IASCF and IASB. We recognize that the Monitoring Group members generally will be subject to a national or multi-national commitment to protect the public interest; however, we believe that more is needed to guarantee the operational independence of the IASC Foundation and the IASB. Section 19 should set out as a requirement that the Monitoring Group subscribes to and supports the objectives of the IASCF. Section 20 should stipulate that the Monitoring Group's charter recognize the objectives of the IASCF and require that MB members support those objectives. Section 20 also should note that the Monitoring Group's charter recognize that independent standard setting free of jurisdictional or other bias is critical in producing high quality accounting standards that appropriately reflect the economic position and performance of an entity. Said differently, we would like to see an explicit acknowledgement that the Monitoring Group will safeguard the IASCF/IASB's independence as that is the most basic requirement for high-quality standard setting. Consequently, we recommend the following changes to Sections 19 and 20 of the constitution:

- 19 The responsibilities of the Monitoring Group shall be:
- a) **To subscribe to the objectives of the IASCF and acknowledge that such objectives are consistent with investor protection and stable capital markets,**
 - b) **To enable the IASCF to more effectively carry out its objectives,**
 - c) To participate . . .

¹ www.bis.org

- 20 The Monitoring Group shall **be governed by** ~~develop~~ a charter that sets out its organizational, operating and decision-making procedures. The charter shall include, among other things, the following stipulations:
- (a) **The Monitoring Group recognizes that the objectives of the IASCF are consistent with investor protection and stable capital markets. The Monitoring Group subscribes to those objectives.**
 - (b) **The Monitoring Group shall enable the IASCF to more effectively carry out those objectives.**
 - (c) **The Monitoring Group acknowledges that accounting standards free from bias produce the highest quality information that appropriately reflects an entity's economic performance and position. The Monitoring Group acknowledges that such standards are developed through the independent structure and process of the IASCF, and its subsidiary, the IASB, as described in the IASCF's constitution, IASB Due Process Handbook, IFRIC Due Process Handbook and other authoritative process documents. The Monitoring Group shall protect and uphold that independent structure and process.**

As a result of the Monitoring Group's independent status, we believe that the Trustees should be required to affirm that the Monitoring Group satisfies the requirements set out in Sections 18–23 of the constitution. The purpose of the affirmation is to confirm to IASCF's constituents that the Monitoring Group is structured appropriately to enable the IASCF to carry out its objectives. We believe such affirmation should be made once the Monitoring Group's charter and the Memorandum of Understanding are finalized. Language supporting the affirmation process should be included in the constitution.

We are concerned about the Monitoring Group having the ability to recommend its own candidates to the IASCF. That may create conditions that make it difficult for an unbiased and objective evaluation of a candidate's qualifications to occur in practice. We believe that the Monitoring Group should have power to appoint candidates that have been recommended by the Trustees nomination committee. We think that it would be appropriate for the Monitoring Group to submit names for consideration to the Trustees nomination committee; however, we believe that the Trustees nomination committee should have the power to propose nominees for appointment by the Trustees and the Monitoring Group. Such power is especially important as the Trustees nomination committee may have several qualified candidates for a particular Trustee seat. We also believe that Section 19(a) should include a statement that the Monitoring Group shall not unreasonably withhold its approval of nominees that satisfy the guidelines in Sections 4–8 of the constitution and have been nominated by the full body of Trustees. Hence, we recommend the following change:

- 19(a) to participate in the process for appointing Trustees and to approve the appointment of Trustees according to the guidelines in Sections ~~45–8~~. **If a nominee has been recommended for the Monitoring Group's approval by the Trustees, the Monitoring Group shall not unreasonably withhold such approval.**

Section 19(c) states that the Monitoring Group will have the power to request meetings with the IASB chairman to discuss any area of work as well as any issues that the Monitoring Group has referred to the IASB for timely consideration. We are concerned that such direct access has the potential to subject the IASB to an overbearing amount of political pressure. We believe that the Monitoring Group's duties should be restricted to the IASCF, which is then directly responsible for IASB oversight. Thus, issues should be referred by the Monitoring Group through the IASCF trustees. We believe that the IASB

chairman should make an annual report to the Monitoring Group and be available for meetings when deemed necessary by both the Monitoring Group and the IASCF chairman.

Section 18 of the constitution requires that the Monitoring Group and the Trustees agree to a Memorandum of Understanding regarding their interaction. That section requires that the Memorandum of Understanding be made available to the public. As that document will specify the duties of the Trustees in regards to their working relationship with the Monitoring Group, we believe that the document should be made available for public consultation (that is, available for public comment).

Q4. Given the proposed creation of a Monitoring Group, would there be a continued need for the Trustee Appointments Advisory Group in the selection of Trustees? If so, what should be the role and composition of the Trustees Appointments Advisory Group?

Yes, we believe that there would be a continued need for the Trustee Appointments Advisory Group (the TAAG) in the selection of Trustees. We believe that as a matter of principle, the Trustees should be fully responsible for the identification of qualified candidates. The TAAG should be retained to provide independent advice and counsel regarding candidates in the nomination process. As such, we believe it should retain its current role as described on the IASB's website:

The Trustee Appointments Advisory Group is a high level and broadly representative advisory group. It was set up to help the Trustees in discharging their responsibility for nominating and appointing highly qualified and interested individuals as Trustees.

We believe that the increasing use of IFRS across global capital markets and higher visibility of the IASCF will result in a stronger desire among capital market participants to participate as Trustees. The TAAG is and would continue to be an important sounding board in the process of selecting the most qualified candidates for available Trustee positions. Also, given the stature of the current TAAG members in the global economic community, we believe that their input on nominees would be an important consideration for the Monitoring Group in its approval of nominees.

Questions related to the IASB's composition

Q5. Do you support the principle behind expanding the IASB's membership to 16 members in order to ensure its diversity, its ability to consult, liaise and communicate properly across the world, and its legitimacy?

Q6. Do you agree with the geographical formulation suggested by the Trustees?

Yes, we agree with the proposed expansion consistent with geographical criteria presented in the DD. We believe that the expansion will provide greater legitimacy to the IASB as those countries adopting IFRS see that representatives from their country or region participate in the standard-setting process at that level.

Q7. The Trustees are suggesting that the Constitution should provide flexibility on the matter of part-time membership. Do you support that proposal?

Yes, we agree with the proposal to provide flexibility on the matter of part-time membership. While we believe that the IASB's growing importance to the global capital markets would enable it to attract qualified full-time candidates, we do not oppose the concept of part-time membership in so far as it has allowed the IASB to identify highly qualified candidates that it may not otherwise have been able to attract.

In conclusion, we hope that the IASCF Trustees and staff find our comments to be useful. We again thank the Trustees for providing us the opportunity to comment on the constitutional proposal. We would be happy to discuss our comments in more detail. If the Trustees or its staff desire to do so, please contact Ralph Odermatt at +41.1.236.4810 or Mike Tovey at +1.203.719.8164.

Kind regards

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