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Der Standardisierungsrat

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Sir David Tweedie
Chairman of the
International Accounting Standards Board
30 Cannon Street

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Berlin, 12 November 2003

Dear Sir David

ED 5 Insurance Contracts Phase I

We appreciate the opportunity to comment on the draft International Financial Reporting Standard *Insurance Contracts Phase I*. We are in strong agreement with the objective of developing high quality International Accounting Standards that will improve financial reporting worldwide. Financial statements based on different accounting standards are not useful for users acting worldwide. It has become more difficult to explain the divergent results reported under different accounting standards. Therefore we support the convergence project as a top priority item on the agendas of both the IASB and national standard setters. We also appreciate that the Board provides a pragmatic solution by dividing the insurance project into two phases. We assure our fully committed cooperation in developing a long term solution that will enable the insurance industry to provide financial information that both adequately reflects the enterprise's financial position and is reliable and relevant to the investor. Against this background, we recommend that the proposals under Phase II will be sufficiently tested, e.g. by extensive field tests, and that the Board will reconsider the timeframe in order to develop a high quality standard.

In addition to answering the Board's questions, we have taken the opportunity to comment in general on the following controversial topics, particularly on the fair value measurement, even though we are aware that the fair value measurement is an issue of Phase II. Our comment on the proposed fair value disclosure in Phase I is set out in our response to question 10.

General Remarks:

- ***Fair Value***

We are not yet convinced that a fair value measurement of assets and liabilities arising from insurance contracts, which assumes the existence of an active market for these assets and liabilities or insurance portfolios at the balance sheet-date, can adequately reflect the special features of the business model. Insurance enterprises enter into a commitment to make certain agreed payments to the policyholder if a specific insured event occurs. As a result of this commitment to provide insurance coverage risks are transferred from policyholders to the insurance enterprises. In contrast to other industries the core business of insurance enterprises is the systematic assumption of risks.

The assumption of risk is a stochastic process involving a combination of risks, i.e. the portfolio of insurance contracts, over one or several accounting periods.

The provision of insurance protection covers the whole period set out in the insurance policy (the insurance term). Insurance enterprises thus are responsible for a continuous provision of coverage over a period of time. Life and health insurance contracts generally cover very long periods, on average running even for several decades. In these cases the insurance enterprise does not have the right to cancel the contract during the insurance term. In the case of property and casualty insurance contracts a long-term duration is not common.

In contrast to the majority of financial instruments, there are no active markets for insurance assets or liabilities which are necessary for determining fair values. In the absence of active markets it is doubtful whether the fair value of assets and liabilities arising from insurance contracts can be measured reliably. Even approximating market values based on existing mathematical models does not necessarily result in reliable fair values due to the uncertainties involved in assessing future cash flows and the sensibility of the parameters used in the model.

Fair value accounting for assets held by industrial enterprises has not yet been seriously discussed, even though the existence of active markets for property, plant and equipment is more probable than for insurance contracts. Therefore, fair value accounting for assets and liabilities arising from insurance contracts would not correspond to the accounting treatment for assets currently applied by industrial enterprises.

In the discussions dealing with the accounting treatment of financial assets and liabilities, fair value accounting was justified by the argument that the realisation principle is not relevant to accounting for financial instruments. Even though they have some characteristics in common there are still fundamental differences, even beyond the question of the availability of a market for the respective assets as discussed above, between insurance contracts and financial instruments. Insurance enterprises remain exposed to underwriting risks until the insurance contract has expired and the claims are discharged. In other words, the risks of insurance enterprises involve the performance of services. In this case, the recognition of insurance contracts is an issue of IAS 18, which deals with rendering services, rather than of IAS 32, 39.

Measuring insurance contracts based on a fair value-approach without market values ascertainable in efficient and liquid markets encourages earnings management and increases arbitrariness. In order to provide reliable and comparable financial statements on a global basis guidance for measuring assets and liabilities arising from insurance contracts is essential. Such guidance should cover a wide range of products currently in place in the international insurance market. Until now we do not see any indication that the development of such guidance will be finalised within the scheduled timeframe.

Investors and insurance enterprises have a common interest in the existence of a level playing field for insurance companies compared to each other as well as compared to companies of other industrial sectors. Recognition of fair value changes in the income statement would discriminate insurance against non-insurance enterprises on the capital markets. Due to the significant effect of fair value accounting for insurance assets and liabilities the earnings would become highly volatile and exceedingly dependant on economy and capital market trends. Revenues and assets of non-insurance enterprises are, actually, also dependant on changes in economy and commodity markets. Whilst non-insurance enterprises do not recognise customer portfolios as assets and, particularly, do not measure them at fair value the effect of fluctuations in the economy on the disclosed results of these enterprises, in comparison to those of insurance enterprises, is likely to be substantially less significant. However, these effects could result in an increase in the capital cost for insurance enterprises that is unrelated to the underlying business and could skew the playing field in capital markets. If fair value will be required for all business activities we would accept a fair value model also for insurance business. But considering the complexity of the insurance business model, testing the fair value on insurance contracts only is not appropriate in our opinion.

We see the necessity of providing conceptual accounting principles for insurance contracts which give a true and fair view of the business model. Thus, we support the Board's intention and assure our cooperation in developing a long term solution in Phase II.

- ***Interrelation of Insurance Phase I and Performance Reporting***

We are concerned that the proposals of ED 5 in connection with the proposed changes to the income statement format, if they will be implemented during Phase I of insurance contracts, will prove to be extremely burdensome on preparers of insurance company financial statements. In fact, the current proposals would imply significant changes to the financial statements of insurance companies firstly in 2005 (IFRS for Insurance Contracts Phase I), secondly in 2006 (Performance Reporting IFRS) and, thirdly in 2007 (IFRS for Insurance Contracts Phase II). This proceeding contradicts the Board's intention of avoiding several changes in accounting methods by segregating the Insurance Project into two phases. We regard these changes within such a short period as dissatisfying to users as well as to preparers.

Question 1 – Scope:

(a) The Exposure Draft proposes that the IFRS would apply to insurance contracts (including reinsurance contracts) that an entity issues and to reinsurance contracts that it holds, except for specified contracts covered by other IFRSs. The IFRS would not apply to accounting by policyholders (paragraphs 2-4 of the draft IFRS and paragraphs BC40-BC51 of the Basis for Conclusions).

The Exposure Draft proposes that the IFRS would not apply to other assets and liabilities of an entity that issues insurance contracts. In particular, it would not apply to:

(i) assets held to back insurance contracts (paragraphs BC9 and BC109-BC114). These assets are covered by existing IFRSs, for example, IAS 39 *Financial Instruments: Recognition and Measurement* and IAS 40 *Investment Property*.

(ii) financial instruments that are not insurance contracts but are issued by an entity that also issues insurance contracts (paragraphs BC115-BC117).

Is this scope appropriate? If not, what changes would you suggest, and why?

(b) The Exposure Draft proposes that weather derivatives should be brought within the scope of IAS 39 unless they meet the proposed definition of an insurance contract (paragraph C3 of Appendix C of the draft IFRS). Would this be appropriate? If not, why not?

GASB's comment:

(a) We support the decision of the IASB to address insurance (reinsurance) contracts rather than insurance (reinsurance) entities in ED 5. The draft does not deal with accounting by policyholders for direct insurance contracts because the IASB does not regard this as a high priority and does not intend to address this subject before Phase II. We are concerned that policyholders will have to apply the hierarchy in ED IAS 8 par. 5 and 6 in the meantime. To ensure a consistent treatment of insurance contracts in the financial statement of both insurers and policyholders we would favour the inclusion of policyholders in the scope of Phase I. If the IASB will not revise its decision to exclude policyholders from Phase I, ED 5 should at least clarify explicitly the position of policyholders for the interim period.

We generally agree with the approach that assets backing insurance contracts are mostly covered by IAS 39 and IAS 40. However, we see a problem with the possible mismatch between the measurement of insurance liabilities and assets held to back insurance liabilities in Phase I. In fact, most of those assets will have to be classified as available for sale under IAS 39, even if they are fixed maturity investments, because of the restrictive tainting rules for held to maturity investments. The use of fair value for an insurer's investment and continuation of current practice for insurance liabilities, mainly nominal values, will lead to a mismatched picture, even if liabilities were perfectly hedged with fixed maturity investments from an economic point of view. Whilst we principally accept this mismatch for investments which are available for sale, we recommend clarifying that in exceptional cases paragraph 85 of IAS 39 can be applied. Sales out of the held to maturity category which are necessary reactions by the management to an unexpected and significant change in insurance risk should not result in the requirement to treat all instruments as available for sale. An exemption from the tainting rules should be allowed under very restrictive conditions and for the transition period of Phase I only.

We accept that financial instruments that are not insurance contracts but are sold by insurance entities are excluded from the scope of ED 5. This is consistent with the decision of addressing insurance contracts rather than insurance entities.

(b) We agree that weather derivatives should be brought within the scope of IAS 39 unless they meet the definition of an insurance contract.

Question 2 – Definition of insurance contract

The draft IFRS defines an insurance contract as a 'contract under which one party (the insurer) accepts significant insurance risk from another party (the policyholder) by agreeing to compensate the policyholder or other beneficiary if a specified uncertain future event (the insured event) adversely affects the policyholder or other beneficiary' (Appendices A and B of the draft IFRS, paragraphs BC10-BC39 of the Basis for Conclusions and IG Example 1 in the draft Implementation Guidance).

Is this definition, with the related guidance in Appendix B of the draft IFRS and IG Example 1, appropriate? If not, what changes would you suggest, and why?

GASB's comment:

We generally support the definition of insurance contracts including the related guidance in Appendix B and Example 1 in the Implementation Guidance. Particularly we welcome that insurance against credit risk is included in the scope of the current definition of insurance contracts. Insurance against credit risk is part of an insurer's overall insurance activity, and is managed as part of a diversified portfolio in the same way as other insurance activities. Thus, it is very different from a financial guarantee that provides for payments to be made in response to changes in certain financial variables such as interest rate, credit rating or credit index.

Question 3 – Embedded derivatives

(a) IAS 39 *Financial Instruments: Recognition and Measurement* requires an entity to separate some embedded derivatives from their host contract, measure them at fair value and include changes in their fair value in profit or loss. This requirement would continue to apply to a derivative embedded in an insurance contract, unless the embedded derivative:

(i) meets the definition of an insurance contract within the scope of the draft IFRS; or

(ii) is an option to surrender an insurance contract for a fixed amount (or for an amount based on a fixed amount and an interest rate).

However, an insurer would still be required to separate, and measure at fair value:

(i) a put option or cash surrender option embedded in an insurance contract if the surrender value varies in response to the change in an equity or commodity price or index; and

(ii) an option to surrender a financial instrument that is not an insurance contract.

(paragraphs 5 and 6 of the draft IFRS, paragraphs BC37 and BC118-BC123 of the Basis for Conclusions and IG Example 2 in the draft Implementation Guidance)

Are the proposed exemptions from the requirements in IAS 39 for some embedded derivatives appropriate? If not, what changes should be made, and why?

(b) Among the embedded derivatives excluded by this approach from the scope of IAS 39 are items that transfer significant insurance risk but that many regard as predominantly financial (such as the guaranteed life-contingent annuity options and guaranteed minimum death benefits described in paragraph BC123 of the Basis for Conclusions). Is it appropriate to exempt these embedded derivatives from fair value measurement in phase I of this project? If not, why not? How would you define the embedded derivatives that should be subject to fair value measurement in phase I?

(c) The draft IFRS proposes specific disclosures about the embedded derivatives described in question 3(b) (paragraph 29(e) of the draft IFRS and paragraph IG54-IG58 of the draft Implementation Guidance). Are these proposed disclosures adequate? If not, what changes would you suggest, and why?

(d) Should any other embedded derivatives be exempted from the requirements in IAS 39? If so, which ones and why?

GASB's comment:

(a) We accept the Board's proposal to apply the current principles under IAS 39 on insurance contracts – unless the derivative itself meets the definition of an insurance contract –as an interim solution for Phase I.

(b) In our opinion it is appropriate to exempt derivatives such as guaranteed life-contingent annuity options or guaranteed minimum death benefits – as described in par. BC123 of the Basis of Conclusions - from segregation and fair value measurement because the payout of these items is contingent on an event that creates significant insurance risk. Therefore, those derivatives meet the definition of insurance contracts rather than financial instruments and are rightly excluded from the scope of IAS 39 by this approach. We recommend clarifying whether such embedded derivatives might be taken into consideration when measuring the insurance contracts. This might include a loss recognition test.

(c) We support the proposed disclosures in par. 29 (e) and IG54-IG58. We consider these disclosures as sufficient and believe therefore that a derivative, that meets the definition of an insurance contract, should be excluded from the scope of IAS 32. We recommend clarifying this matter by bringing the wording of Appendix C1 in line with C2.

(d) We did not identify any other embedded derivative as requiring exemption.

Question 4 – Temporary exclusion from criteria in IAS 8

(a) Paragraphs 5 and 6 of [the May 2002 Exposure Draft of improvements to] IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* specify criteria for an entity to use in developing an accounting policy for an item if no IFRS applies specifically to that item. However, for accounting periods beginning before 1 January 2007, the proposals in the draft IFRS on insurance contracts would exempt an insurer from applying those criteria to most aspects of its existing accounting policies for:

(i) insurance contracts (including reinsurance contracts) that it issues; and

(ii) reinsurance contracts that it holds.

(paragraph 9 of the draft IFRS and paragraphs BC52-BC58 of the Basis for Conclusions).

Is it appropriate to grant this exemption from the criteria in paragraphs 5 and 6 of [draft] IAS 8? If not, what changes would you suggest and why?

(b) Despite the temporary exemption from the criteria in [draft] IAS 8, the proposals in paragraphs 10-13 of the draft IFRS would:

(i) eliminate catastrophe and equalisation provisions.

(ii) require a loss recognition test if no such test exists under an insurer's existing accounting policies.

(iii) require an insurer to keep insurance liabilities in its balance sheet until they are discharged or cancelled, or expire, and to report insurance liabilities without offsetting them against related reinsurance assets (paragraphs 10-13 of the draft IFRS and paragraphs BC58-BC75 of the Basis for Conclusions).

Are these proposals appropriate? If not, what changes would you propose, and why?

GASB's comment:

(a) We consider the exemption from the hierarchy of ED IAS 8 par. 5 and 6 appropriate. However, as discussed above in the answer to Question 1 in our opinion a more consistent approach would be to include holders of direct insurance contracts in the ED.

ED 5 proposes the inclusion of a sunset clause that will reinstate the hierarchy of IAS 8 in 2007. In our opinion the IASB pressurises itself with a very ambitious time schedule to achieve a final comprehensive standard on insurance contracts. We are seriously concerned that the timeframe for finalising a conceptually sound standard will have to be extended or that by unconditionally maintaining the date of the sunset clause the standard will not be of the desired quality. In particular, we are concerned that, if the sunset clause is not met, the exception from IAS 8 will expire on the one hand and there will not be any requirements for the accounting of insurance contracts consistent with the IASB Framework on the other hand. This could lead to another change in accounting policy for insurance contracts within the period before finalising Phase II. We would like to point out that the systems have to be in place on 1 January 2006 and at least one period is needed to implement the systems. This means that Phase II has to be finalised before the end of the year 2004 to ensure the first time application of the final standard on 1 January 2007. Considering this ambitious timeframe we are concerned that the sunset clause might possibly not be met. Thus, we suggest linking the exemption from paragraphs 5 and 6 of IAS 8 to the effective date of Phase II.

(b) We acknowledge that equalisation and catastrophe provisions do not meet the definition of liabilities in the IASB Framework as far as they cannot be assigned to single specific insurance contracts. We regard it as problematic that the elimination of catastrophe provision under the current deferral and matching approach results in the recognition of unrealised earnings because in a period in which the insured event does not occur the whole premium will be accounted for, whilst the risk will be unconsidered. Against this background we regard it as reasonable to allow the recognition of catastrophe provisions in Phase I to the extent they are calculated on the basis of past experience.
Furthermore, we would like to point out that the wording in paragraph 10 (a) may be misleading. We therefore suggest clarifying the meaning of "…possible future claims under future insurance contracts".

We fully support the Board's proposal requiring a loss recognition test if such test does not exist under an insurer's current accounting policy.

In our opinion the questions about derecognition and offsetting have to be treated separately. Insurance liabilities involve uncertainties which affect both (de)recognition and measurement. Because measurement will be a topic of Phase II we suggest to discuss the derecognition criteria in the context of measurement and carry on accepting current practice in Phase I. Beyond that, we support the proposal that insurance liabilities should be recognised without offsetting them against related reinsurance assets.

Question 5 – Changes in accounting policies
The draft IFRS:

(a) proposes requirements that an insurer must satisfy if it changes its accounting policies for insurance contracts (paragraphs 14-17 of the draft IFRS and paragraphs BC76-BC88 of the Basis for Conclusions).

(b) proposes that, when an insurer changes its accounting policies for insurance liabilities, it can reclassify some or all financial assets into the category of financial assets that are measured at fair value, with changes in fair value recognised in profit or loss (paragraph 35 of the draft IFRS).

Are these proposals appropriate? If not, what changes would you propose and why?

GASB's comment:

We are aware that the IASB intends Phase I to be a stepping stone for Phase II and that it should therefore be practicable and does not claim to be a conceptually coherent standard. Against this background we accept the proposal of the IASB.

Question 6 – Unbundling
The draft IFRS proposes that an insurer should unbundle (i.e. account separately for) deposit components of some insurance contracts, to avoid the omission of assets and liabilities from its balance sheet (paragraphs 7 and 8 of the draft IFRS, paragraphs BC30-BC37 of the Basis for Conclusions and paragraphs IG5 and IG6 of the proposed Implementation Guidance).

(a) Is unbundling appropriate and feasible in these cases? If not, what changes would you propose and why?

(b) Should unbundling be required in any other cases? If so, when and why?

(c) Is it clear when unbundling would be required? If not, what changes should be made to the description of the criteria?

GASB comment:

(a) With regard to the transparency of financial statements the standard should aim at a clear separation of assets and liabilities and a conceptually sound accounting treatment for insurance components on the one hand and deposit components on the other hand. Insurance contracts are however designed and calculated to offer a bundle of closely interrelated benefits for the policyholder. The artificial unbundling of the product would not necessarily enhance the informational relevance of financial statements. Therefore we agree that insurance and deposit components have to be unbundled only if accounting for the complete product would mean that the insurer does not recognise obligations. If an insurance liability exists that is completely separable from the deposit component, e.g. when an account is kept in the name of the policyholder, this liability should also be recognised separately.

(b) No other cases have been identified.

(c) In our opinion IG 5 and IG 6 of the Implementation Guidance are not helpful and give not enough guidance when unbundling would be required. Also the proposed wording in par. 7 is not sufficiently clear. There is no guidance on how to assess whether the cash flows from the insurance component affect the deposit component.

Question 7 – Reinsurance purchased

The proposals in the draft IFRS would limit reporting anomalies when an insurer buys reinsurance (paragraphs 18 and 19 of the draft IFRS and paragraphs BC89-BC92 of the Basis for Conclusions).

Are these proposals appropriate? Should any changes be made to these proposals? If so, what changes and why?

GASB comment:

We do not believe that these proposals are appropriate as Phase I does not consider in detail the entire accounting for reinsurance, which will only be done for Phase II. We therefore recommend that the treatment of all aspects of reinsurance accounting should be addressed in Phase II. This would allow reinsurance accounting, if necessary, to be changed consistently with the approach adopted for direct business in Phase II, thereby avoiding the creation of anomalous results and the need to create financial systems solely for Phase I.

Furthermore, we note that the application of IAS 36 on reinsurance assets could lead to accounting inconsistencies between the reinsurer´s share of a provision and the gross amount (e.g. undiscounted gross provision but discounted reinsurer's share). We therefore suggest allowing local GAAP for assets and liabilities arising from reinsurance contracts for the transitional period of Phase I.

Question 8 – Insurance contracts acquired in a business combination or portfolio transfer

IAS 22 *Business Combinations* requires an entity to measure at fair value assets acquired and liabilities assumed in a business combination and ED 3 *Business Combinations* proposes to continue that long-standing requirement. The proposals in this draft IFRS would not exclude insurance liabilities and insurance assets (and related reinsurance) from that requirement. However, they would permit, but not require, an expanded presentation that splits the fair value of acquired insurance contracts into two components:

(a) a liability measured in accordance with the insurer's accounting policies for insurance contracts that it issues; and

(b) an intangible asset, representing the fair value of the contractual rights and obligations acquired, to the extent that the liability does not reflect that fair value. This intangible asset would be excluded from the scope of IAS 36 *Impairment of Assets* and IAS 38 *Intangible Assets*. Its subsequent measurement would need to be consistent with the measurement of the related insurance liability. However, IAS 36 and IAS 38 would apply to customer lists and customer relationships reflecting the expectation of renewals and repeat business that are not part of the contractual rights and obligations acquired.

The expanded presentation would also be available for a block of insurance contracts acquired in a portfolio transfer (paragraphs 20-23 of the draft IFRS and paragraphs BC93-BC101 of the Basis for Conclusions).

Are these proposals appropriate? If not, what changes would you suggest and why?

GASB comment:

We accept the Board's view.

Question 9 – Discretionary participation features

The proposals address limited aspects of discretionary participation features contained in insurance contracts or financial instruments (paragraphs 24 and 25 of the draft IFRS and paragraphs BC102-BC108 of the Basis for Conclusions). The Board intends to address these features in more depth in phase II of this project.

Are these proposals appropriate? If not, what changes would you suggest for phase I of this project and why?

GASB comment:

We support the temporary exemption for contracts with discretionary participating features until Phase II is completed. We do however not agree with par. 24 (b) that allows the issuer of such contracts to allocate the surpluses arbitrarily between liabilities and equity. In our opinion the allocation of surpluses should be based on policyholders' contract conditions, the insurer's past practice, and the insurer's policy. If the issuer of such contracts is legally forced to distribute a certain amount of the surplus or is bound by constructive obligations because of his own practice in the past, the surplus should be recognised as a liability and not as equity.

Question 10 – Disclosure of the fair value of insurance assets and insurance liabilities

The proposals would require an insurer to disclose the fair value of its insurance assets and insurance liabilities from 31 December 2006 (paragraphs 30 and 33 of the draft IFRS, paragraphs BC138-BC140 of the Basis for Conclusions and paragraphs IG60 and IG61 of the draft Implementation Guidance).

Is it appropriate to require this disclosure? If so, when should it be required for the first time? If not, what changes would you suggest and why?

GASB comment:

We refer back to our comments on a fair value model for assets and liabilities arising from insurance contracts set out in the general remarks. We however would like to take the opportunity to express once more our concern, that the fair value model as required for financial instruments cannot be transferred to insurance contracts without modifications.

We also do not comprehend the Board's proposal to require information about fair value without a conception of what fair value of assets and liabilities arising from insurance contracts could be. The Board refuses the concept of embedded values regarding such values as problematic relating to relevance and reliability but we do not see that the Board has proposed an alternative concept. Though the fair value for assets and liabilities arising from insurance contracts has been discussed since 1996, there is no guidance in ED 5 on the disclosure of fair value. To provide the proposed fair value disclosures and to test the concept in Phase I before fair value will be required in the balance sheet and the income statement in Phase II, guidance on how fair value of assets and liabilities arising from insurance contracts should be determined is essential. We are seriously concerned that in default of a fair value concept in Phase I the insurance entities are encouraged to present divergent values generated by non-standardised internal controlling systems. This will not provide investors with relevant, reliable and therefore decision useful information which improves the transparency and comparability of financial statements. We fully support the requirement of providing information about the overall risk position, the risk management and the risk measurement methods which help the investor to forecast the potential risks of the insurer's business.

Against this background we also refer to national Standards in Germany which are based on approved methods of risk measurement, such as the GAS 5-20 *Risk Reporting by Insurance Enterprises*. In addition to information about general risks, insurers are required to provide information about specific risks and types of risk as well as the overall risk management of the enterprise. GAS 5-20 requires that risks are quantified where this can be done with reliable and approved methods. If an enterprise uses internal risk models to quantify risks, these will generally provide the basis for the disclosures. In particular, this information enables users to get an impression of the insurers overall risk position and of the performance in general. If embedded values are generated within a risk reporting system we would regard their presentation as an useful disclosure in Phase I. As methods to calculate embedded values are not standardised we suggest alternatively to the proposed disclosure and as a stepping stone to a long term solution that the Board should encourage the disclosure of embedded values in Phase I as disclosure in the notes or, if required under local GAAP, in the MD&A. Since we consider the presentation of information about insurer’s risk position and risk management as very important with regard to the decision usefulness of financial statements we are fully committed to discuss and elaborate a worldwide risk reporting system with the IASB.

Another problem we see is the implementation and educational timeframe that is definitely too short. If the Board insists on requiring fair value in Phase II, a conceptual sound system for the fair value of assets and liabilities arising from insurance contracts will have to be finalised until the end of the year 2004. The fair value measurement involves fundamental changes in IT-systems and the education of the staff. As the Board is still in the process of developing a fair value concept we believe that an implementation of fair value measurement, irrespective of the final definition of fair value, will not be possible for 2006.

Question 11 – Other disclosures

(a) The Exposure Draft proposes requirements for disclosures about the amounts in the insurer’s financial statements that arise from insurance contracts and the estimated amount, timing and uncertainty of future cash flows from insurance contracts (paragraphs 26-29 of the draft IFRS, paragraphs BC124-BC137 and BC141 of the Basis for Conclusions and paragraphs IG7-IG59 of the draft Implementation Guidance).

Should any of these proposals be amended or deleted? Should any further disclosures be required? Please give reasons for any changes you suggest.

To a large extent, the proposed disclosures are applications of existing requirements in IFRSs, or relatively straightforward analogies with existing IFRS requirements. If you propose changes to the disclosures proposed for insurance contracts, please explain what specific attributes of insurance contracts justify differences from similar disclosures that IFRSs already require for other items.

(b) The proposed disclosures are framed as high level requirements, supplemented by Implementation Guidance that explains how an insurer might satisfy the high level requirements.

Is this approach appropriate? If not, what changes would you suggest, and why?

(c) As a transitional relief, an insurer would not need to disclose information about claims development that occurred earlier than five years before the end of the first financial year in which it applies the proposed IFRS (paragraphs 34, BC134 and BC135).

Should any changes be made to this transitional relief? If so, what changes and why?

GASB comment:

In general we agree with the Board's intention to provide decision useful information. In this context we would like to point out to the German Accounting Standard 5-20 "Risk reporting for insurance enterprises" since we believe that GAS 5-20 provides an appropriate balance between relevance and reliability as well as detail of information given.

We understand that the intention of the Implementation Guidance is to provide the preparers with an understanding of the objectives of the provisions in the standard itself, rather than a checklist that would require an inclusion of each item listed in the notes. We would, however, favour a clarification of this matter.

In addition we have comments on the following topics of the Implementation Guidance:

IG 20: With regard to materiality the disclosure prescribed is reasonable only on a highly aggregated level. This is especially relevant for larger groups. A separate description of the individual items listed in lit. (a) - (h) would not be appropriate.

IG 25: The prescribed disclosure for assumptions would not be appropriate for estimates for example in the context of claims provisions. It is part of the insurance business that changes in assumptions referring to one item are off-set by changes in assumptions for other items within the portfolio.

IG 27: The information prescribed under lit. (d) would already be provided by the loss triangle required by paragraph 29 c iii of the standard itself.

IG 37: Information prescribed in lit. (a) could lead to the disclosure of business secrets which are not required to be disclosed by enterprises in other industries.

IG 39: Since reliable information as prescribed under lit. (a) and (c) is not available as yet, we consider the proposed disclosure as questionable. Especially in lines of business with less determinable cash flow patterns (non-life insurance) it is not reasonable at all, as the uncertainty about the timing is a central part of the nature of the business.

IG 40, lit. (c): Within the risk reporting we consider it appropriate that any quantification refers to insurance risks already considering possible risk reductions. Any notion before and after possible risk reductions (reinsurance, policyholder participation and other mitigating elements) would increase the level of details unnecessarily.

IG 48: The disclosure of loss triangles is an example for information that is already given under certain jurisdictions in the MD&A rather than in the notes to the accounts. The disclosure requirements should address the fact that a high degree of information is given already in context of the financial statements but not necessarily in the notes. This practice should be continued in Phase I, if MD&A is required by local GAAP. We are of the opinion, that the IASB should discuss such a fundamental issue in a wider context, for instance in respect to other transactions and industries.

Question 12 – Financial guarantees by the transferor of a non-financial asset or liability

The Exposure Draft proposes that the transferor of a non-financial asset or liability should apply IAS 39 *Financial Instruments: Recognition and Measurement* to a financial guarantee that it gives to the transferee in connection with the transfer (paragraphs 4(e) of the draft IFRS, C5 of Appendix C of the draft IFRS and BC41-BC46 of the Basis for Conclusions).

IAS 39 already applies to a financial guarantee given in connection with the transfer of financial assets or liabilities.

Is it appropriate that IAS 39 should apply to a financial guarantee given in connection with the transfer of non-financial assets or liabilities? If not, what changes should be made and why?

GASB comment:

We agree.

Question 13 – Other comments

Do you have any other comments on the draft IFRS and draft Implementation Guidance?

GASB comment:

Deferred acquisition cost

We agree with the Board's tentative decision at the July 2003 meeting to change the definition of transaction costs. We understand that this will lead to a consistent treatment of internal and external cost, as far as they are incremental. In our view this will result in an adequate measurement of insurance contracts which do not meet the definition of ED 5 in a cost model.

We do, however, not agree with the requirement that for investment contracts with both the demand and participation feature the fair value of the liabilities shall not be less than the amount payable on demand (BC 117). We believe that this requirement does not concur with the definition of fair value currently used in IAS 39 ("Exit value" = amount to be paid for a transfer of the liability). Insurance contracts that do not meet the definition of ED 5 are usually managed on a portfolio level, for which we believe expected surrender patterns would be more appropriate. In absence of a change of the Board's decision regarding IAS 39 as well as participating contracts in ED 5, we do expect the application to lead to a timing difference between the IFRS Financial Statements and those relevant for profit distribution in most cases.

If you would like any clarification of these comments please contact me.

Yours sincerely,

Prof. Dr. Klaus Pohle
President