LONDON	22–23 October 2012	**Agenda ref**	**5**
TOPIC	Summary of the Update to the IASB's due process discussions at the June 2012 Council meeting		
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This paper has been prepared for discussion at a public meeting of the IFRS Advisory Council. The views expressed in this paper are those of the authors. Comments made in relation to the application of an IFRS do not purport to be acceptable or unacceptable application of that IFRS.

Overview

1. At its June 2012 meeting the IFRS Advisory Council discussed the proposed updates to the IASB's due process.

2. Alan Teixeira and David Loweth gave a presentation on the main features of the draft handbook and presented four issues that the Council would discuss in smaller groups. The issues were:

    (a) the introduction of the sections in the draft Handbook dealing with oversight and the Due Process Oversight Committee's (DPOC) responsibilities, including the protocol for handling perceived breaches of due process;

    (b) the Due Process Protocol;

    (c) the introduction of a separate research programme; and

    (d) distinguishing between narrow-scope projects and comprehensive projects.

3. After the presentation the Council was divided into four groups to discuss the four issues, each group was assigned one issue to discuss.

Issue 1: Due Process Oversight

Do you agree with the inclusion and content of the section of the draft Handbook on oversight and the responsibilities of the DPOC? Why or why not?

Do you have any views on the protocols for the action that the Trustees can take in the event of a perceived breach of due process?

Do you have any further comments or suggestions for how the role and responsibilities of the DPOC are set out?

Issue 2: Due Process Protocol

Do you agree that a reporting protocol should be maintained on the website for each project? Why or why not?

Do you have any views on the protocols as set out in appendix 4 accompanying the draft Handbook, in particular on the reporting metrics to demonstrate the steps the IASB has taken in meeting its due process obligations?

Do you have any further comments or suggestions for how the reporting protocol might be enhanced?

Issue 3: Research programme

Do you agree with the introduction of a separate research programme that will likely become the development base from which potential standards-level projects will be identified? Why or why not?

Do you have any comments or suggestions for how the description of the research programme might be enhanced?

Issue 4: Implementation and maintenance

Do you agree with the distinction between narrow-scope projects, which come under the heading of maintenance, and comprehensive projects, which come under the heading of development of IFRSs? Why or why not?

Do you have any comments or suggestions for how the description of the implementation and maintenance of IFRSs might be enhanced?

Reports back

4.   The Council members were split into four groups:

    (a)   Group 1 led by Judith Downes.
    (b)   Group 2 led by Jim Sylph.
    (c)   Group 3 led by Anne Molyneux.
    (d)   Group 4 led by Kenneth Sullivan.

5. The general conclusion was that Council members support the importance of robust due process and the general direction of the proposals. However, a number of suggestions were made to enhance and clarify the proposed amendments.

Group 1

6. Judith Downes reported back for the group. The group agreed that the role and responsibilities of the DPOC should be included in the handbook. They are wide-ranging enough and not too restrictive. The group also liked the idea of having the actual protocol in the appendix.

7. The group then turned to section 8 of the handbook, which deals with the protocols and actions in the event of a breach. There were four issues that the group considered:

    (a)   the publicity of given to complaints;

    (b)   the issue of timing;

    (c)   potential breaches of mandatory parts; and

    (d)   the role of the DPOC.

8. By looking at these four issues, the group was trying to achieve a balance between ensuring that complaints can be made and that they can be dealt with. The group was keen that the process should not become too bureaucratic or be open to abuse.

9. The handbook proposes to put up on a web page the complaint made, the name and the contact details of the person making the complaint. The group thought that there might be potential problems with this in terms of someone merely wanting publicity, or with someone making vexatious complaints or using a lot of complaints to hold up the process of developing Standards. It could also be seen as fairly intimidatory to have the complaint put on a web page. However, the IFRS Foundation could seem to be covering up complaints by apparently dismissing them and not dealing with them, if it is not open about the complaints.

10. Complaints should be dealt with by staff of the Trustees and not the staff of the IASB, a distinction that is already made. Clearly there would be conflict if staff of the IASB would be involved in dealing with the complaints. To ensure transparency before a final Standard is issued, there should be a summary of all complaints received and how they

have been dealt with. It is especially important to show what was done about valid complaints: what remedies were made and how. Those raising the complaint should only be named publicly if the agree first.

11.	The group discussed the need for time limits for when a complaint could be made and addressed. The group's proposal was that any perceived breach should have a complaint lodged within 120 days of the perceived breach. That is a rolling process that precludes somebody right at the end of the process from complaining about much earlier steps. There should be a time frame in which a complaint can be legitimately made, to avoid open discussion of historic issues. When it comes to a ballot version of a Standard, that time frame should be shortened to perhaps 30 days. A standard should not be issued before the DPOC has signed off on the due process for it (the DPOC might issue a summary of complaints and how they have been dealt with). This should force a timely resolution of complaints made and also make it impossible to lodge challenges based on due process after a final Standard has been issued.

12.	The protocol calls for optional parts and mandatory parts, and obviously complaints can be made that the optional steps were not included in the development of a Standard. Potential breaches of optional parts could be dealt with within the proposals that the group has put forward. As for the mandatory parts, there should be no discretion in applying them and no breaches of these parts. This does, however, mean that you have to be careful about what you make mandatory; the message here is keep it simple and short: that is no reason for allowing discretion on breaches of mandatory parts. This is particularly important because the Standards become law in some countries and we do not want legal challenges on the basis that not all mandatory parts have been followed. The current wording in the proposals is too soft, because it says that failure in one area does not render a pronouncement invalid. The group was not comfortable with this in relation to mandatory breaches. The only way around a mandatory breach would be for the Trustees to pre-approve changes to mandatory parts of the due process for a particular Standard, which the group thought was a pretty serious step.

13. The group considered that respondents need to accept hard closures more than they do now. The 120-day comment period requirement for new Standards could be a mandatory minimum, to allow longer comment periods. The group also considered what to do about responses received after the comment period; and thought that the end date of the comment period should be a hard closure for responses. The group thought that it should not only apply to the IASB but also to respondents.

14. Other comments: the DPOC is required to do a regular review of the process as the Standard is developed and should therefore pick up any issues as it goes along, regardless of whether complaints are made. Breaches should be very rare.

15. The DPOC should ensure that a cost-benefit analysis is being done. The group also wondered whether the draft handbook should refer to the Monitoring Board and its role (given that the Monitoring Board has a duty to review the Trustees' oversight of the IASB's standard-setting process).

Group 2

16. Jim Sylph reported back for the group. The group was split in its views on how to answer this question. What is the purpose of the form in appendix 4? It would be a different document if it is to be in the public domain than it would be if it is to be a report to the DPOC and clearly the Exposure Draft suggests that it is to be a document in the public domain. There were very strong opinions within the group supporting both views. Those that favoured this as a public document with full transparency were sceptical about whether reporting that the IASB had held 100 meetings on a Standard would mean anything to anybody. This is because the natural reaction of those who were in any case sceptical about the due process would be to ask for information about with whom those meetings were held, in order to try to see whether their views had been presented. Is disclosing the number of meetings on a specific project really meaningful information? Who decided on the number of meetings? Should there have been fewer or more meetings?

17. Then the group considered what would be the difference between the Basis for Conclusions and appendix 4. What information would be in appendix 4 that would not be

in the Basis when a final standard is issued? Maybe appendix 4 should describe some of the issues that the IASB was debating or considering at various points in the process, as opposed to those that were the subject of Exposure Draft comments and that would come through in the Basis for Conclusions. If it is to be a public document, it needs to protect the integrity and objectivity of the thinking by the IASB, which has underpinned the Standard that it has developed. It also needs to able to protect the IASB from those that will challenge whether the IASB did act with integrity and objectivity. To do that it cannot be a report of numerical facts. This needs to be an ongoing process throughout the course of a project and clearly appendix 4 suggest questions that need to be answered at the research stage, the Exposure Draft stage and at the final Standard stage. There should be some form of 'sign-off' along the way. It is no good for the DPOC merely to review this when a final Standard is issued and then expressing concern about something that happened in the research or the Exposure Draft stage.

18. The form that is in the Exposure Draft does not have any sense of being a considered conclusion; it is only a statement of facts. The IASB should do some sort of self-assessment about this process at the end of issuing a Standard. Is the IASB satisfied that all steps in the due process have been carried out, and can the IASB make some conclusion on a self-assessment basis that it has followed due process fairly and completely throughout the life of a project? The form should include some kind of conclusion by the IASB, its Chairman or the technical director, which would express a statement that these are the facts. This would constitute a certification to the public, the DPOC and others that all steps necessary have been carried out.

19. There was also a question about the role of the DPOC and the Trustees in this process. If they are to have some statement of public oversight on a Standard, then the Trustees probably need to understand what the key strongly divergent options were that the IASB was dealing with. This is not so that the Trustees and the DPOC could rethink or challenge the technical decisions made by the IASB, but just so that they understand, generically speaking, what groups have been supported the final decisions that the IASB has taken and what groups had their views rejected. This would give the groups a sort of

warning about what sort of negative reactions might come out of this public statement and where it will come from.

20. The group had some overall comments about the document. A few questioned whether this needs to be a public document. If it is a report on the due process, should it just go to the DPOC?

Group 3

21. Anne Molyneux reported on behalf of the group. The group was looking at the material in the handbook relating to research and research projects. The group did not see research as something separate but as a part of the overall IASB programme. There is a need for great clarity on how the IASB is going to use the research function. The group felt that there was not enough clarity about the two styles of research. One style of research derived from the IASB's vision, its strategy and really long-term thinking. A suitable topic for such research would be a topic that we really think is going to be on the agenda in five years' time. We want to be prepared for it and these are some the issues that we would like you to research. The other style of research is issues that might arise or might require amendments or other changes to Standards or new information that might affect Standards and that should be researched. These are different styles of research and might therefore require different processes in the handbook.

22. When the group discussed due process generally, it felt that it needed to incorporate both styles of research into the existing structure. The group used as an example the Korean project on foreign currency and how it is trying to work within the current structure. Research is being done and information gathered, but where do we go from here? The group canvassed one or two of the known solutions, but not all the solutions. Consequently, the group thought that the nature of research had to be very clear on what the topic is, why we are doing it, what the criteria are for setting up a research programme, what the criteria are throughout the programme in terms of timeliness, reporting, accountability, meeting milestones, and finally, when we arrive at the end of a research programme, what the criteria are for deciding whether it is to go onto the IASB and its standard-setting agenda or not. If a research project is not taken on by the IASB,

what is the rationale for that decision, and what are the criteria and information that need to be given out in order to justify the rejection to take on the project?

23. The group agrees that the standard-setting process needs to be more evidence-based. The group also discussed what acceptable research was. Is it academic empirical research, some of which is very useful, such as the work on segment reporting? Some of this research is highly academic and probably less useful. Do we consider what is adequate research: at the company level, at industry level, or at the national level? Would capital market research be adequate, for example, or is it only a simple fact-gathering programme? More is needed in the Due Process Handbook about what constitutes research, and what would we expect to constitute adequate research? A lot more rigour needs to go into what see as due process regarding research.

24. To some extent, research has to follow the same due process as standard-setting in order to defend the process. Much of what is written in the Due Process Handbook would be about how the IASB is able to show that it is independent and showing objective judgement, however this could in a way backfire on the IASB if there is so much solidly based information to look at that the IASB may not be in a position to take the project forward. There maybe a need to look at the possible negative consequences of the due process.

25. Some discussions took place within the group on what has happened on IAS 41 regarding agriculture and the Malaysian experience in this. The group thinks that in terms of material on research, we could look at, and usefully learn from, what they did: where the problems lay, and what their mandate was. Was it not to rewrite the standard or was it to be selective in the proposals? These are the sort of issues that need to go into the research due process. What actions did they take to define the problem, and what was the size or the scale of it? What was done to bring the research to a state where it is acceptable for consideration by the IASB? What were the consultation processes, etc. The group thought that doing this was a useful tool to test the material that we have currently on due process, in terms of research.

26.   The group considers research to have two sides to it. One is risk-based research, ie identifying problems that we need to deal with, and the other is the opportunity side, which deals with the IASB's vision for long-term strategic thinking.

27.   When a research project goes into a research programme, we do not want to see it go on for a long time (as happened with leasing); instead, it should go into the programme with clarity about the outcome and then come out of the programme either by being taken on by the IASB or with no action being taken on it. There needs to be a clear movement from a research programme to an end result, which is that it is either accepted as a basis for a project or rejected. If that is not done you could end up with a very long list of research projects.

28.   There needs to be a consistency to the IASB's response to research. If research has certain criteria, qualities and outcome, the IASB needs to be clear and consistent in its response to similar research papers so that it is not introducing ad hoc judgement at that point.

29.   There is a need for a criterion to prioritise research projects, to account for how, for example, two or three projects get accepted when others are not accepted. There is a need to manage expectations of those who do the research and the disappointment of those whose research does not lead to a project being taken onto the IASB's agenda.

30.   There is a need for criteria for a project to advance from a research phase to the next phase. There is also a need for criteria for terminating research projects. There also needs to be rigour about milestones, timing and reporting.

31.   On group member said that the last point on transparency was of particular interest to the group, because it is not acceptable for people to do work in private and then come to the IASB not only with a project proposal but also with a solution, without others having the opportunity to provide input.

Group 4

32.   Kenneth Sullivan reported back on behalf of the group. The group discussed whether the distinction between narrow-scope projects, which would come under the heading of maintenance, and the comprehensive projects, which would come under the heading of

development of IFRSs, was appropriate. There were some differences within the group on this, because we believed that the clear-cut bifurcation of the process suggests a clarity that does not exist in determining which issues should go which way. The terms that were used by group members were that the allocation was done on a 'smell test' basis, ie as more of an art than a science.

33.   There therefore needs to be a very active due process oversight in the monitoring of the allocation and the processing of the issues as they are allocated to either of these paths. This is all part of a process that starts with an IASB decision. To start with, the IASB needs appropriate information to be able to make an informed decision on which path to allocate the projects to. However, before that the IASB needs to have the information to proceed with the issue, and if the IASB decides not to take on the issue, it needs to have a clear process for documenting and to report the reasons for not accepting the issue.

34.   If the IASB does decide to accept the issue, it must decide, including taking into account cost-benefit considerations, whether it goes to the comprehensive stream or maintenance stream. If the issue goes to the maintenance stream, the IASB must decided whether it is going to deal with the issue itself or let the IFRS Interpretations Committee (Interpretations Committee) deal with it. There is also a need for a process to monitor the issue as it goes through. Discussion within the group brought out examples of projects starting down one stream and ending up being a part of the broader stream, such as that a project starting off as an Interpretations Committee issue but ending up being a part of a broader IASB project.

35.   As a result of this, we need to confirm in the due process that there were active discussions between the IASB and the Interpretations Committee. Part of these discussions needs to be that the time-critical issues are addressed. Examples of this were issues that were sent to the Interpretations Committee but were delayed because they were supposed to be included in the IASB's project on revenue recognition. However, the revenue project has been delayed and the Interpretations Committee never dealt with the issue. Consequently users, regulators, auditors and preparers were left hanging waiting for a definition of an important issue.

36. This is where effective operation of due process comes in and we are able to ensure that issues that have been assessed as being timely and relevant are discharged on a timely and relevant basis.

37. There is also an issue where standards started off with the Interpretations Committee migrated to become a part of a broader standards project. Here there are examples again relating to revenue recognition. IFRIC 15 on multiple deliverables started off as an Interpretations Committee issue but was forwarded up to the broader revenue project. There therefore needs to be a due process that ensures the co-ordination of these processes.

38. The group also discussed the labels and was quite happy with comprehensive or standard-setting label, but found that the label 'maintenance' was maybe too general because the maintenance issue could be a time-critical issue, a maintenance issue, an enhancement or a narrow-scope issue, or it could be an interpretation. It could even be a combination of all of these. The group would want to avoid situations where the naming drives the allocation of topics. The group did not come up with proper alternative suggestions but it may be worth giving this issue some further consideration to try to capture the purpose of the streams.

39. Finally, the group endorsed the comments made by group 3 about research projects. Because the group was looking at the process as being part of a continuing and integrated process, the use of the term 'separated research projects' caught our attention. A research phase of a project should not be a mandatory part of a work stream that includes enhancement or maintenance of a Standard, ie one that is not a broad standards project.

40. One member of the group just wanted to enhance or illustrate what Kenneth said. If you look at the IASB's project on offsetting, which was both maintenance (there is an existing Standard) and relatively narrow in scope (ie those transactions are not accounted for by the vast majority of the IASB constituents). However no one thought that it should be done by the Interpretations Committee. This is a way of illustrating that you cannot really put a label on the issue, to say whether it is maintenance and should go to the Interpretations Committee and not to the IASB. In addition, if it is maintenance it should

get less research. In such cases, you would not want the handbook to use these labels, which might end up pigeonholing things when there is a live example of where it does not work.

General discussions

41.   After the reports back Paul Cherry opened the discussions.

42.   Paul did not want to summarise the discussions; a range of views had been expressed and it was best not to filter them.

43.   The comments that were raised were constructive with no one arguing against the importance of due process and the desire to capture the major elements in the Due Process Handbook. There are pros and cons in terms of transparency. Will transparency actually discourage people from expressing complaints or might it actually encourage people to 'throw sand into the gears' to slow down the standard-setting process? Should these evaluation be in the public domain or not? This will be useful for the Trustees to reflect on.

44.   In terms of research, the IASB and the Trustees need to provide clarity on the importance of research and put perimeters around that. What are the implications of having a clear and closer connection between research and standard-setting, both of which are legitimate activities to be promoted by the IASB? How much of the IASB's resources should be committed to the research function is still to be determined. It will probably be more in terms of managing the process. Some care is going to be required to manage the use of resources, to manage the activities that are undertaken and to decide whether it is called research or something else. It is important to have a clear definition of the objective of the activities and to manage expectations to avoid frustration.

45.   In terms of the distinction between maintenance and major projects, this is much more a judgement call than it is a science. Coming up with clear-cut criteria will be difficult. The sentiment here is that the Trustees concur that the IASB and the Interpretations Committee collectively have the authority and the flexibility to adapt their processes to

get timely results as best they can, and that sometimes you do not need the full range of bells and whistles for certain activities that you do for others.