

STAFF PAPER

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Rate-regulated Activities Consultative Group

Project	Rate Regulation
Paper topic	Scope issues: Identifying the rate regulator
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Defining the ‘rate regulator’

1. The scope of the proposals in Exposure Draft *Rate-regulated Activities*, published in July 2009 (the 2009 ED) was restricted to a particular type of rate regulation; “cost-of-service” regulation (paragraph 3 of the 2009 ED):

“3 An entity shall apply this [draft] IFRS to its operating activities that meet the following criteria:

(a) an authorised body (the **regulator**) establishes the price the entity must charge its customers for the goods or services the entity provides, and that price binds the customers; and

(b) the”

2. The [rate] regulator was defined as:

An authorised body empowered by statute or contract to set rates that bind an entity’s customers. The regulator may be a third-party body or may be the entity’s own governing board if the board is required by statute **or contract** to set rates both in the interest of the customers and to ensure the overall financial viability of the entity [emphasis added].

3. Some respondents to the 2009 ED were concerned that the definition was too broad. Those respondents assumed that the intention of including the entity’s own

governing body was to (appropriately) capture those cases where an entity is established to carry on previously state-run monopolistic activities and would be delegated regulatory powers by the Government.

4. However, the concern is that the scope could be applied, by analogy, to entities having monopolistic features. This concern was raised within the context of entities that, in the absence of an external regulator, self regulate (for example, by formally agreeing this with investors through the articles of association) on a cost-of-service basis (ie cost plus predetermined return). Entities may do this to avoid potential government intervention if they might otherwise be perceived to be abusing their monopoly position.
5. In addition, there is a concern that more clarity is needed around the scope and whether other types of entity should be included within the scope, for example, farming co-operatives or mutual insurance companies.
6. The Exposure Draft *Regulatory Deferral Accounts*, published in April 2013, contained the same scope requirement and definition that are contained in paragraphs 1 and 2 above. Explanatory material in the Basis for Conclusions confirms that entities within the scope must be subject to formal rate regulation and that entities with monopolistic features that are not subject to formal rate regulation cannot apply the [draft] interim Standard by analogy.

Questions for the Consultative Group

Defining the scope: the rate regulator

1. Do you agree that the scope of the planned Rate Regulation Discussion Paper should focus on rate regulation that is formalised in statute and is overseen by an authorised body as currently described?
2. Should entities such as farming co-operatives or similar being included within the scope? Please give reasons why or why not.
3. Do you think that the existing definition adequately describes the requirement? If not, what alternative do you suggest?