



Due Process Oversight Committee  
IFRS Foundation  
30 Cannon Street  
London EC4M 6XH  
United Kingdom

9 July 2013

Dear Sirs,

**Re: Proposal to amend IAS 40 – comment letter analysis**

We are writing to you to express our concerns about the comment letter analysis performed by the ISAB Staff (“the Staff”), following an observation in connection with the proposal to amend IAS 40 as part of the current annual improvement cycle (2011 – 2013).

In November 2012, the IASB published the Exposure Draft ED/2012/2 Annual Improvements to IFRSs 2011–2013 Cycle in November 2012. BUSINESSEUROPE responded to the exposure draft on 18 February 2013.

As part of our response to the proposed amendments to IAS 40 *Investment Property* we explained:

*“However, while the amendment is expected to be a very narrow change to the current IFRSs, it nevertheless illustrates the need to consider more globally the consequences of the distinction between assets and businesses and whether guidance to distinguish assets from businesses is needed as part of the post implementation review of IFRS 3.*

*We do not believe that the proposed change to IAS 40 answers this concern.”*

In summary, while we understood what the IASB was aiming at, we did not believe that the proposal was useful in the manner it was drafted.

When reading the Staff’s May 2013 IFRS Interpretation Committee (“IFRIC”) Agenda paper 11D, we were therefore surprised to note in paragraph 16 of that paper that the Staff interpreted our comments as agreement with the proposed changes to IAS 40.

We appreciate of course that opening paragraphs which generically welcome the IASB or IFRIC doing something could be misunderstood to support the proposal, but so far expected the Staff to be able to differentiate between pleasantries opening statements and actual support of a proposal.

We are deeply concerned about such possible misinterpretations of comment letters by the Staff in such a area at the heart of the due process, as (a) the IASB and IFRIC



members significantly rely on the analysis performed by the Staff and (b) constituents are usually not and should not be required reviewing every time the Staff's paper for appropriate reflection of their thoughts and concerns.

In fact in connection with the recently issued Amendment to IAS 36 *Recoverable Amount Disclosure* we noted that the Staff did not even include a – from our perspective – important concern in their analysis and we contacted the IASB and EFRAG in connection with that in our letter dated 11 June 2013, which we have attached in appendix for your reference.

We would therefore appreciate if you could elaborate on the process put in place that ensures the quality of the Staff analysis with respect to the appropriate reflection of constituents inputs and what review and quality assurance steps the Due Process Oversight Committee is performing or taking in this respect.

We would also like to link this with our concerns raised during our earlier correspondence with you, namely our letter to you dated 11 June 2012 and our comments sent in connection with the due process handbook, dated 11 September 2012, particularly with respect to transparency in connection with meetings the Staff has with constituents and the feedback to the IASB and / or IFRIC.

We remain at your disposal should you wish to discuss this subject further.

Yours sincerely,

Jérôme P. Chauvin  
Director  
Legal Affairs Department  
Internal Market Department