

AGENDA PAPER

IFRS Foundation Trustees meeting – Due Process Oversight Committee

SYDNEY

8 APRIL 2014

Agenda ref 3B(i)

Rate-Regulated Activities Discussion Paper (DP): due process steps and permission to ballot

Attached is the paper on the above issue that will be presented to the IASB at its April 2014 meeting (Agenda Paper, AP 9 for that meeting).

STAFF PAPER

April 2014

IASB Meeting

Project	Rate-regulated Activities: Research project		
Paper topic	Due process and permission to ballot		
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This paper has been prepared by the staff of the IFRS Foundation for discussion at a public meeting of the IASB and does not represent the views of the IASB or any individual member of the IASB. Comments on the application of IFRSs do not purport to set out acceptable or unacceptable application of IFRSs. Technical decisions are made in public and reported in IASB *Update*.

Purpose of this paper

1. This paper:
 - (a) Sets out the due process steps undertaken in developing the Rate-regulated Activities Discussion Paper;
 - (b) Discusses the comment period for the Discussion Paper; and
 - (c) Seeks the IASB's permission to ballot the Discussion Paper.

Purpose of the Discussion paper

2. The purpose of the Rate-regulated Activities Discussion Paper is to seek input on:
 - (a) whether rate regulation creates assets or liabilities in addition to those already recognised in accordance with IFRS for non-rate-regulated activities;
 - (b) if any 'regulatory' assets and liabilities are created, how should they be accounted for, and
 - (c) whether or not any 'regulatory' assets or liabilities are created, what information about the rate regulation needs to be presented in IFRS financial statements.

Background

History of the project

3. In July 2009, the IASB issued an Exposure Draft *Rate-regulated Activities* (the 2009 ED). This 2009 ED proposed requirements for the accounting for regulatory deferral and variance account balances established in accordance with a cost-of-service¹ rate-setting mechanism. These balances are often referred to as regulatory assets or regulatory liabilities. Responses to the 2009 ED were mixed and raised complex and fundamental issues at a conceptual level.
4. The IASB could not decide how to resolve the many technical issues raised by respondents, both in formal comments letters and in other outreach activities. The IASB was also divided on how to progress the project. Consequently, due to resource constraints at that time, the IASB decided, in September 2010, to suspend the project and wait for the outcome of its public consultation on its future agenda before deciding what form a future project, if any, might take to address rate-regulated activities.
5. In response to the views received in the Agenda Consultation, the IASB decided, in September 2012, that the Rate-regulated Activities project should restart with a research phase, with the aim of developing a Discussion Paper.
6. At the same time, the IASB began considering requests, which had been highlighted in the Agenda Consultation responses and related round-table meetings, for an interim IFRS to be developed for use until a more comprehensive solution is developed. These requests came primarily from interested parties that consider that the high levels of uncertainty about the outcome of the Rate-regulated Activities project, compounded by the mixed views of respondents and IASB members, together with a lack of guidance within IFRS, is a major barrier to the adoption of IFRS in the jurisdictions that currently recognise regulatory deferral account balances in accordance with their local generally accepted accounting principles (GAAP).

¹ Cost-of-service regulation was defined in the 2009 ED as “A form of regulation for setting an entity’s prices (rates) in which there is a cause-and-effect relationship between the specific costs the entity incurs in providing the regulated goods or services and its related revenues, as specified by the regulator.”

The interim IFRS

7. In October 2012, the IFRS Advisory Council (the Advisory Council) considered the factors that the IASB should be aware of when deciding whether or not to develop an interim IFRS. Although a majority of Advisory Council members did not support an interim solution, there were some members who strongly supported it. The Advisory Council did acknowledge the uncertainty and lack of understanding about the economic effects and potential financial reporting impacts of rate regulation. Consequently, they supported the IASB's decision to carry out the research project and concluded that, if any interim solution is to be developed, this should be done quickly in order to avoid jeopardising the timetable for any comprehensive solution to be developed as a result of the research project.
8. In December 2012, the IASB decided to develop an ED for an interim solution, within the constraints recommended by the Advisory Council. The ED *Regulatory Deferral Accounts* was published in April 2013, with a 132-day comment period. The ED proposed to permit first-time adopters of IFRS that recognise regulatory deferral account balances in accordance with their previous GAAP to continue with their existing accounting policies for such balances when making the transition to IFRS. However, to address concerns about reducing comparability in IFRS reporting, the ED proposed some presentation and disclosure requirements that are designed to segregate the impact of recognising regulatory deferral account balances.
9. Following its redeliberations, the IASB decided to finalise, subject to some clarifications and additional application guidance, the proposals for an interim IFRS that is limited to first-time adopters of IFRS. Consequently, IFRS 14 *Regulatory Deferral Accounts* was issued in January 2014, which is effective for accounting periods beginning on or after 1 January 2016. Earlier application is permitted.
10. The Trustees' Due Process Oversight Committee (DPOC) undertook a lifecycle review of the due process on the interim IFRS project at its meeting in January 2014. At that meeting, while the DPOC considered that all the due process steps had been followed satisfactorily and that the IASB could proceed

with the issue of the interim IFRS, the Committee emphasised to the IASB the importance of the comprehensive project being completed as quickly as possible.

Development of the Discussion paper

Previous work

11. In developing this Discussion Paper, the IASB has drawn on the public discussions and other work carried out in the previous project prior to its suspension in September 2010. In addition to the responses received through formal comment letters on the 2009 ED, the IASB staff carried out extensive outreach both during and after the formal comment period. The staff conducted meetings, calls and solicited correspondence from the investor/analyst community, utility preparers and trade organisations, international accounting firms, national standard-setters, securities regulators and utilities regulators. The feedback from the outreach activities was summarised in papers presented to the IASB in February 2010 (Agenda Paper, AP 7 *Summary Comment Letter Analysis*) and July 2010 (AP 11F *Results of outreach efforts*).

Board meetings

12. In addition to the IASB meetings held before the project was suspended in 2010, the IASB has discussed the development and proposed contents of the Rate-regulated Activities Discussion Paper at seven public meetings between December 2012 and February 2014.
13. The IASB has also received input from the Accounting Standards Advisory Forum in two public meetings in December 2013 and March 2014.

Consultative group

14. The Due Process Handbook states that the IASB normally establishes a consultative group for major projects. The purpose of a consultative group is to provide additional practical experience and expertise. In April 2013, the IASB announced the formation of such a consultative group to help in its project on rate regulation. The group consists of senior professionals with extensive practical

experience in the operation of a variety of rate-regulatory schemes and provide a variety of expert perspectives, including those of preparers, auditors and users of financial statements, and regulators.

15. In July and November 2013, IASB members and staff met with the Consultative Group and discussed the Rate-regulated Activities project. Consultative Group members provided comments, both during the meetings and subsequently, on a series of papers that are contributing to the development of the Discussion Paper.

External consultation

16. In March 2013, the IASB published the Request for Information: *Rate regulation*. The objective of the request was to gather high-level overviews of the types of rate regulation that are in force in order to provide factual evidence and examples to support the development of the Discussion Paper. 79 responses were received from 25 countries, which describe aspects of rate regulation in 37 countries.
17. In addition to the consultation with the IASB's Consultative Group, IASB staff have attended two one-day meetings of the Rate-regulated Activities Working Group of the European Financial Reporting Advisory Group (EFRAG).
18. Given the extensive outreach carried out on the 2009 ED (see paragraph 10), the responses to the Request for Information, and the input of the Consultative Group, the IASB has sought only limited external input from other sources since the project has restarted. Both IASB members and outside parties have found it difficult to assess possible approaches to accounting for rate regulation without having a clear understanding of the mechanisms used to establish and enforce the rights and obligations created by different forms of rate regulation.
19. Consequently, the IASB will undertake more extensive external consultation after it has issued the Discussion Paper.

Comment period

20. The Due Process Handbook states that the comment period for a Discussion Paper is normally at least 120 days. In favour of a 120-day comment period, the staff note the following:

- (a) This Discussion Paper is only a first step in the development of a more permanent solution than the interim solution contained in IFRS 14. Extending the comment period beyond 120 days may not provide any additional insight and may delay the IASB in starting its more focused research and analysis.
- (b) The interim solution contained in IFRS 14 is only available to first-time adopters of IFRS that meet specified criteria to apply the Standard. This means that only a limited population of entities will be entitled to use it, which is much smaller than the population of rate-regulated entities that are seeking clarity on from the comprehensive project. Consequently, the comprehensive project should be completed as quickly as possible, which is a point that the DPOC emphasised at its January 2014 meeting.

21. However, the staff are suggesting a 150-day comment period. The target publication date for the Discussion Paper is late June or July 2014. For many jurisdictions, this will be a short time before the extended summer vacation period. We intend to carry out formal outreach during the comment period to help interested parties to more fully understand the issues and the possible ways that the project could be taken forward. Consequently, we think that stakeholders may need this extra time to enable them to provide fully considered responses to the Discussion Paper questions.

Question 1 Comment period

Do you agree with the staff recommendation to give a 150-day comment period for the Discussion Paper?

Permission to ballot

22. The appendix to the paper summarises the due process steps undertaken so far in developing this Discussion paper.

Question 2 Due process

Is the IASB satisfied that it has completed all of the steps that are necessary to ensure that the Rate-regulated Activities Discussion Paper is likely to meet its purpose?

23. If you are satisfied that all necessary steps are completed, the staff would like permission to begin the formal balloting process.

Question 3 Permission to ballot

Do the staff have permission to begin drafting the Discussion Paper for balloting?

Appendix: Due process steps during the development of the Rate-regulated Activities Discussion Paper

- A1. General IASB requirements: although not a mandatory step in the due process, the IASB often publishes a Discussion Paper (DP) as its first publication on any major new topic as a vehicle to explain the issue and seek early comment from interested parties. It is normally the first major milestone in a research project. The IASB normally allows a period of 120 days for comment on such papers (Due Process Handbook, paragraphs 4.16–4.19).
- A2. Due Process Oversight Committee (DPOC) objective: to satisfy the DPOC that a thorough process was followed in the development of the papers. The DPOC responds to any comments received on the due process that the IASB followed when it developed and published a DP.

<i>Step</i>	<i>Required/ Optional</i>	<i>Metrics or evidence</i>	<i>Actions</i>
Discussion or Research Paper development			
DP developed in public meetings.	Optional	<p>Meetings held to discuss the topic.</p> <p>Project website contains a full description with up-to-date information.</p> <p>Meeting papers have been posted in a timely fashion.</p>	<p>The IASB has discussed developing the contents of the Discussion Paper at seven public meetings between December 2012 and February 2014.</p> <p>The website is up-to-date. Papers for the IASB meetings were posted before each meeting and summary of each meeting was included in <i>IASB Update</i>.</p>
Consultation with the IFRS Advisory Council (the 'Advisory Council') has occurred.	Optional	Discussions with the Advisory Council on the topic.	The Advisory Council expressed its support for restarting the project in its June 2012 meeting. In October 2012, the Advisory Council supported the IASB's decision to carry out the research project to develop a Discussion Paper and concluded that, if any interim solution is to be developed, this should be done quickly in order to avoid jeopardising the timetable for any comprehensive solution to be developed as a result of the research project.
Project-specific updates are sent via email alerts	Optional	Frequency of alerts provided.	None so far but will consider when the project

<i>Step</i>	<i>Required/ Optional</i>	<i>Metrics or evidence</i>	<i>Actions</i>
to registered users.			proposals are more fully developed.
Consultative groups are established depending on the nature of issues and the level of interest among interested parties.	Optional	Argument provided for or against the use of the consultative group. Extent of consultative group meetings that have been held. Feedback to the consultative group has been provided.	A consultative group has been formed. The consultative group met in July and November 2013 and will be kept informed as the Discussion Paper is being drafted.
Online survey to generate evidence in support of or against a particular approach.	Optional	Survey shown on the IASB website. Number and diversity of respondents. Analysis of the response.	Not considered necessary at this point – the Discussion Paper will explore various approaches on which input is sought.
Outreach meetings to promote debate and hear views on the financial reporting issue that is being examined.	Optional	Schedule of the outreach meetings.	Limited outreach so far but more will be held once the Discussion paper has been published.
Public discussions with representative groups.	Optional	Meetings held.	The rate-regulated Activities project has been discussed with the Accounting Standards Advisory Forum (December 2013 and March 2014).
Regional discussion forums, where possible, with national standard-setters with the IASB.	Optional	Extent of meetings held and the venues where issues have been discussed.	Not undertaken at this stage.
Podcasts to provide interested parties with high level updates or other useful information about the specific project.	Optional	Number of podcasts. Number of participants on podcasts.	None provided.
Publication			
DP has appropriate comment period.	Required if DP issued	The IASB has set the comment period. If outside the normal comment period, an explanation from the IASB to the DPOC has been provided, and the decision has been approved.	To be discussed at the April 2014 IASB meeting.
Press release to announce publication of the DP.	Optional	Release was announced in a timely fashion. Media coverage of the release.	Will be done in due course
Snapshot document to	Optional	Snapshot prepared at the	To be determined

<i>Step</i>	<i>Required/ Optional</i>	<i>Metrics or evidence</i>	<i>Actions</i>
explain the rationale and basic concepts included in the DP.		time of the release.	
Webcast of interactive presentations streamed in real time from the IASB's office.	Optional	Number of webcasts held.	To be determined
The IASB determines if focused investor consultation is required to supplement the comment letters.	Required if DP issued	Staff Paper.	Will be determined in due course
Request for additional comment and suggestions by conducting fieldwork.	Optional	Meetings held.	To be determined
Round-table meetings between external participants and members of the IASB.	Optional	Number of participants in round-table meetings and venues for the round-table meetings confirmed.	To be determined