



Investors Technical Advisory Committee

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Via Email

September 26, 2008

Tamara Oyre
Assistant Corporate Secretary
IASC Foundation

*Re: Discussion Document: Review of the Constitution, Public
Accountability and the Composition of the IASB—Proposals for
Change*

Dear Ms. Oyre:

The Investors Technical Advisory Committee (“ITAC”)¹ appreciates the opportunity to provide its views on the International Accounting Standards Committee (“IASC”) Foundation’s July 2008 Discussion Document, *Review of the Constitution, Public Accountability and the Composition of the IASB—Proposals for Change* (“Discussion Document”).²

¹ This letter represents the views of the Investors Technical Advisory Committee (ITAC) and does not necessarily represent the views of its individual members, the organizations in which they are employed, or the views of the Financial Accounting Standards Board (FASB) or its staff. For more information about the ITAC, including a list of the current members and the organizations in which they are employed, see http://www.fasb.org/investors_technical_advisory_committee/.

² International Accounting Standards Committee Foundation, *Review of the Constitution, Public Accountability and the Composition of the IASB— Proposals for Change* (July 2008), http://www.iasb.org/NR/rdonlyres/12CC476D-B88F-418A-826F-71A7465FC2E0/0/Proposal_and_issues_for_the_Constitution.pdf [hereinafter *Discussion Document*].

September 26, 2008

Page 2 of 11

General comments

ITAC supports the IASC Foundation's review of the governance structure and operating procedures of the Foundation and the International Accounting Standards Board ("IASB"). Those issues are vitally important for those, like the ITAC, who support the goal of developing a single set of high quality global financial reporting standards by the IASB in conjunction with attending to remaining convergence aspects with the Financial Accounting Standards Board ("FASB").³

As investors, we believe that at least three general areas of inquiry are relevant when considering the appropriate governance structure and operating procedures of an **independent private sector** accounting standard setter such as the IASB. First, we believe the structure and procedures should "safeguard[] the independence of the standard-setting process."⁴

Having a standard setter that is independent in appearance and in fact enhances the credibility of the standard setting process and lessens the ability of special interest groups to manipulate the process to favor their own short-term interests to the detriment of the interests of investors and the capital market system.⁵ Moreover, independence promotes the long-term sustainability of global standards and ensures continual buy-in and participation by all parties.

³ See, e.g., Letter from Jack Ciesielski, Member, ITAC, to Ms. Nancy M. Morris, Secretary, Securities and Exchange Commission 1 (Nov. 2, 2007), http://www.fasb.org/investors_technical_advisory_committee/11-02-07_ifrs_concept_release.pdf.

⁴ *Discussion Document*, *supra* note 2, at 10.

⁵ See, e.g., Letter from Jeff Mahoney, Co-Chair, ITAC, to Ms. Teresa S. Polley, Chief Operating Officer, Financial Accounting Foundation (FAF) 8 (Feb. 12, 2008), <http://www.fasb.org/ocl/FAF-PCREQ/51924.pdf> [Hereinafter *FAF Letter*].

Second, we believe that the structure and procedures of the accounting standard setter should focus primarily on the needs of investors, and should be commensurably aligned. On this point, we generally agree with the recommendation of the Advisory Committee on Improvements to Financial Reporting to the United States Securities and Exchange Commission which stated:

Investor perspectives are critical to effective standards-setting, as investors are the primary consumers of financial reports. Only when investor representatives are properly considered by all parties does financial reporting meet the needs of those it is primarily intended to serve. Therefore, investor perspectives should be given pre-eminence by all parties involved in standards-setting. . . . [A]dditional investor representation would facilitate increased consideration of investor perspectives in the standards-setting process.⁶

Finally, we believe the structure and procedures of the accounting standard setter must provide for a secure, stable, and mandatory funding source for the standard setter. As we outlined in a recent letter to the Financial Accounting Foundation (“FAF”) regarding the Governmental Accounting Standards Board:

We believe the GASB, like any accounting standard setter, must be adequately funded to provide high quality and timely standards. We also believe that the key criterion for evaluating the appropriateness of a funding source for the GASB or any other accounting standard setter is whether the source enhances rather than detracts from the independence of the standard setter.⁷

⁶ Final Report of the Advisory Committee on Improvements to Financial Reporting to the United States Securities and Exchange Commission 57 (Aug. 1, 2008), <http://www.sec.gov/about/offices/oca/acifr/acifr-finalreport.pdf> (footnote and emphasis omitted).

⁷ FAF Letter, *supra* note 5, at 9 (footnotes omitted).

September 26, 2008

Page 4 of 11

Consistent with our general comments, the following are our responses to the specific questions raised in the Discussion Document.

Questions relating to the Monitoring Group

Q1 Do you support the creation of a link to a Monitoring Group in order to create a direct link of public accountability to official institutions?

We do not object to the creation of a link to a Monitoring Group. We, however, are not confident that the Monitoring Group would achieve its stated purpose of “complement[ing] and enhanc[ing] confidence in the governance of the organization, while still safeguarding the independence of the standard-setting process.”⁸ Instead, as some commentators have suggested, the Monitoring Group may actually lessen confidence in the governance of the IASC Foundation because the group may be perceived as a vehicle for special interests to interfere with or override the decisions or judgments of the IASB and, thereby, impair the independence of the standard setting process.⁹

We believe sufficient “public accountability to official institutions” can best be achieved by: (1) having an open, thorough, and publicly observable standard setting process that focuses on investors’ information needs; and (2) having ongoing oversight and periodic evaluation of the IASB by the IASC Foundation (or similar oversight body) that is independent of the IASB and has significant representation from investors.

⁸ *Discussion Document*, *supra* note 2, at 10.

⁹ See, e.g., Bye Bye Independence, <http://norris.blogs.nytimes.com/2007/11/06/bye-bye-independence/2> (Nov. 6, 2007, 7:25 PM EST).

September 26, 2008

Page 5 of 11

Q2 The proposals contemplate a Monitoring Group comprising representatives of seven public authorities and international organizations with a link to public authorities. While recognising that the Monitoring Group is an autonomous body, the Trustees would welcome comments regarding the Monitoring Group's membership and whether other organizations accountable to public authorities and with an interest in the functioning of capital and other financial markets should be considered for membership.

If, despite our concerns, a Monitoring Group is formed we believe the membership of the group should be modified to include representation from investors. In our view, the Monitoring Group is unlikely to function in a manner that serves the needs of the primary customers of financial reporting if investors are excluded from the group.

We understand that the Monitoring Group is intended to address a specific perceived deficiency of participation from public authorities, but that perceived deficiency is not, in our view, a legitimate basis for denying representation from the primary customers of financial reports. Any perceived deficiency of participation from public authorities is far surpassed by the perceived deficiency of participation from investors in and outside of the U.S.¹⁰ As one example, a recent analysis of International Financial Reporting Standards by French institutional investors concluded:

The governance process of the IASB, and more generally of the overall structure of international standard setting including the IASC Foundation . . . is often criticised for the scant attention paid to the viewpoints of users of financial statements.¹¹

¹⁰ See, e.g., Federation Francaise des Societes d'Assurances, Investor Perspectives on IFRS Implementation 7 (Dec. 7, 2007), http://www.iasplus.com/resource/2007/investorperspectives_en.pdf.

¹¹ *Id.*

Q3 The Trustees will remain the body primarily responsible for the governance of the organization and the oversight of the IASB. Their responsibility to a Monitoring Group will enable regulatory and other authorities responsible for the adoption of IFRSs to review the Trustees' fulfillment of their constitutional duties. Does the formulation of the Monitoring Group's mandate and the Trustees' reporting responsibilities, as described in proposed Section 19, appropriately provide the link, while maintaining the operational independence of the IASC Foundation and the IASB?

As indicated in response to Q1 and Q2, we generally do not support the formation of the Monitoring Group and are concerned that it will diminish the "operational independence of the IASC Foundation and the IASB." If, notwithstanding our concerns, the Monitoring Group is formed and constituted as proposed, we believe that its mandate should be narrowly defined.

More specifically, in our view, any mandate of the Monitoring Group should focus primarily on educating and communicating with representatives of public authorities around the world about the benefits of independent private sector accounting standard setting, and the means for facilitating consistent and rigorous application, auditing, and enforcement of global accounting standards. Such a mandate could actually (1) enhance (rather than impair) the independence of the IASB, (2) reduce the real risk that public authorities may take actions resulting in accounting that diverges from IASB standards, and (3) increase the odds the IASC Foundation's stated objective "to develop . . . a single set of high quality, understandable and enforceable global accounting standards that require high quality, transparent and comparable information in financial statements" can be achieved.¹²

¹² *Discussion Document, supra* note 2, at 8.

September 26, 2008

Page 7 of 11

Q4 Given the proposed creation of a Monitoring Group, would there be a continued need for the Trustee Appointments Advisory Group in the selection of Trustees? If so, what should be the role and composition of the Trustees Appointments Advisory Group?

As indicated in response to Q3, if the Monitoring Group is formed, we would support narrowly defining its mandate. We, therefore, would not object to having the Trustee Appointments Advisory Group continue to assist the IASC Foundation in discharging their responsibility for nominating and appointing Trustees. Consistent with our response to Q2, however, we believe that the composition of the Trustee Appointments Advisory Group must include appropriate representation from the investment community to better ensure that the needs of the primary customers of financial reports are adequately served by the appointments process.

Questions related to the IASB's composition

Q5 Do you support the principle behind expanding the IASB's membership to 16 members in order to ensure its diversity, its ability to consult, liaise and communicate properly across the world, and its legitimacy?

We generally do not support the principle behind expanding the IASB's membership to sixteen members. We note that when the IASB was initially formed some parties expressed concern that having fourteen members would inhibit the "operating efficiency" of the IASB.¹³ We share that concern.

¹³ International Accounting Standard's Committee's Strategy Working Party, Recommendations on Shaping IASC for the Future 15 (Nov. 30, 1999), <http://www.iasplus.com/restruct/1999swpfinal.pdf>.

We also note that the proposed expansion of the IASB's membership appears to be driven largely by the IASC Foundation's desire to "provide[] legitimacy in the eyes" of the preparer community through establishing a more geographically diverse board.¹⁴ We are unclear as to how that desire benefits the primary consumers of financial reports. Finally, rather than investing additional scarce resources towards the expansion of the IASB's membership, we believe those resources would provide greater returns if allocated to improving the staff mechanisms of the IASB. It is our understanding that the current size and composition of the IASB staff is simply "not adequate for the tasks" required of a high quality global accounting standard setter.¹⁵

Q6 Do you agree with the geographical formulation suggested by the Trustees?

We do not agree with the geographical formulation suggested by the Trustees. We recognize that geographical diversity is important to the selection of IASB members.¹⁶ We, however, are concerned that a greater emphasis on geographical considerations for selecting IASB members could potentially (1) diminish the importance of what we believe are far more critical criteria to the selection of IASB members, and (2) create a "representative" board composed of individuals that are more likely to be perceived as promoters of the narrow public policy interests of the region they represent, rather than developers of high quality accounting standards that serve the needs of investors.

In our view, the selection of IASB members should focus on ensuring that (1) IASB membership has adequate representation from investors, and (2) candidates for IASB membership possess, at a minimum, the following key qualities:

- (a) independent-mindedness,

¹⁴ *Discussion Document*, *supra* note 2, at 15.

¹⁵ Letter from Robert E. Denham, Chairman, FAF & Robert H. Herz, Chairman, FASB, to Ms. Nancy M. Morris 8 (Nov. 7. 2007), http://www.fasb.org/FASB_FAF_Response_SEC_Releases_msw.pdf.

¹⁶ *Discussion Document*, *supra* note 2, at 15-16.

- (b) financial accounting and reporting expertise, and
- (c) a commitment to improving financial accounting and reporting for the benefit of investors and other users of financial reports.¹⁷

Assuming the aforementioned requirements are met; we would not object to the IASC Foundation considering geographical diversity when selecting IASB members because we agree that such consideration could enhance the standard setting process. Geographic diversification, however, should not be a prerequisite for selecting IASB members.

Q7 The Trustees are suggesting that the Constitution should provide flexibility on the matter of part-time membership. Do you support that proposal?

We generally do not support providing flexibility on the matter of part-time membership. We understand that the IASB believes that to-date the “part-time positions have attracted high qualified candidates.”¹⁸ We, however, believe that having full-time members is essential to ensuring the ongoing independence of the IASB.

Part-time board members could potentially be conflicted by positions taken by their employer and could face difficult decisions as to which constituency they owe their allegiance. Those potential conflicts are not hypothetical. We are aware that they have occurred with part-time accounting standard setters in the past.¹⁹

¹⁷ *FAF Letter*, *supra* note 5, at 8.

¹⁸ *Discussion Document*, *supra* note 2, at 16.

¹⁹ *See, e.g.*, Establishing Financial Accounting Standards, Report of the Study on Establishment of Accounting Principles 8 (Am. Inst. of Certified Pub. Accountants Mar. 1972) (on file with ITAC) (“A part-time, volunteer APB will continue to be subject to doubts as to the disinterestedness of its members—their freedom from client and other pressures”).

September 26, 2008

Page 10 of 11

As one example, the creation of the FASB as the first accounting standard setter in the U.S. with full-time members was largely in response to concerns that the decisions of the part-time members of the prior accounting standard setting organizations were influenced by “conflict[s], real or apparent, between the member’s private interest and the public interest.”²⁰ Given the highly politicized environment of international accounting standard setting, we believe that part-time members of the IASB could be subject to similar and likely more frequent conflicts of interest.²¹

In conclusion, we wish to reemphasize that the ITAC remains a staunch supporter of a single set of high quality accounting standards and we applaud the ongoing efforts of the IASC Foundation and the IASB to work cooperatively with the FAF, the FASB, and other parties towards that common goal. We believe those efforts will prove to be of great value to U.S. and global investors in enabling more informed economic decisions.

²⁰ *Id.* at 72.

²¹ See, e.g., Donna L. Street, International Convergence of Accounting Standards: What Investors Need to Know 28 (Oct. 2, 2002), [http://www.cii.org/UserFiles/file/resource%20center/publications/International%20Convergence%20White%20Paper%20\(Final\)%2011-14-07.pdf](http://www.cii.org/UserFiles/file/resource%20center/publications/International%20Convergence%20White%20Paper%20(Final)%2011-14-07.pdf) (“According to Wyatt, with lobbying from ‘multiple governments with differing priorities and multiple business communities with various interests to protect’ pressures on the IASB will eventually exceed those ever faced by any national standard setter and make development of . . . standards a massive challenge”).

September 26, 2008

Page 11 of 11

We appreciate the opportunity to comment on the Discussion Document.
We would be happy to respond if you have any questions or need any
additional information.

Sincerely,

Investors Technical Advisory Committee

By:

A handwritten signature in black ink, appearing to read "Jeff Mahoney". The signature is written in a cursive, flowing style.

Jeff Mahoney

Co-Chair

cc: Terri S. Polley, President and Chief Operating Officer, Financial
Accounting Foundation