



Sir David Tweedie
International Accounting Standards Board
30 Cannon Street,
London EC4M 6XH,
United Kingdom

7 October 2004

- EAPB Opinion -
on the IASB Exposure Draft "Amendments to
IAS 39 and IFRS 4 – Financial Guarantee Contracts
and Credit Insurance"

Dear Sir David,

The European Association of Public Banks (EAPB), which represents the interests of approximately 100 public banks and funding agencies of the European Union, would like to thank the International Accounting Standards Board (IASB) for giving it the opportunity to comment on the proposed amendments to IAS 39 and IFRS 4 regarding "Financial Guarantee Contracts and Credit Insurance".

I. General remarks

We consider that the accounting treatment of financial guarantee contracts has so far not been resolved satisfactorily. Indeed, both the definition of the scope of IAS 39 and IFRS 4 and the measurement of financial guarantees should be clarified.

The exposure draft which was presented on 8 July 2004 deals with the issue of the definition, where we would like to present some remarks. Despite some considerable improvements introduced by the exposure draft, we believe that proposals on this issue represent only partially a solution. Concerning the question of measurement of financial guarantee contracts which is also tackled, we can only give little support to the proposals as several important issues would not be solved.

In particular, we would like to underline that a financial guarantee contract in principle contains not only a commitment to possible payment but also generally the right to corresponding consideration in the form of premium payments. When measuring the guarantee, it is therefore necessary to take account of both components. A financial guarantee contract is not necessarily to be recognised as liability at the amount of the prospective payment commitment. On the contrary, the fundamental claim to consideration is to be taken into account in the measurement. If – as in the case of transactions at market conditions – the premium payments offset the prospective payment commitment precisely, the financial guarantee has a fair value of zero and could not be recognised initially.

In addition, the fair value does not depend on the time at which a payment is made, i.e. a premium paid up front does not represent the fair value of a guarantee, but a deferred and accrued item, since a service was provided but the consideration is still outstanding. Therefore, we consider that a regulation as presented in BC 23 (a) and (b) is more appropriate.

We therefore recommend further improvements to the draft concerning the above-mentioned concerns.

II. Answers to the specific questions

Question 1 – Form of contract:

Do you agree that the legal form of such contracts should not affect their accounting treatment?

If not, what differences in legal form justify differences in accounting treatments? Please be specific about the nature of the differences and explain clearly how they influence the selection of appropriate accounting requirements.

We support the basic principle that economically equivalent contracts should receive the same accounting treatment despite differences in legal form. However, we do not agree with the provision on initial measurement of financial guarantees (AG4A (a) and IN3 (a) of this Exposure Draft).

Although the requirement for a financial guarantee to be initially recognised at fair value is unproblematic (IN3 (a) at the beginning and AG4A (a), 2nd sentence of this draft), the presumption that the fair value equals the premium received – where there is conformity with market conditions – (IN3 (a) at the end and AG4A (a), 3rd sentence of this draft), is in our opinion incorrect.

According to this provision, two financial guarantees with the same conditions, but with differing premium payment dates, could be measured differently at inception depending on this time of payment.

It would be correct for both to be measured equally at inception. The different premium payment dates are rather a question of the accrual provisions (cf. BC 23 (a) and (b)) and must be reflected in allocation of premium payments made and future premium payments to different periods, but not in the measurement of the financial guarantee contract itself.

At inception, the value of the entire financial guarantee contract results from the balance of the theoretical values for the liability of the prospective payment commitment and the total possible premium claim. Since – where there is conformity with market conditions – the two values cancel one another out precisely, the fair value at inception is zero. The financial guarantee could not be recognised.

We therefore recommend amending the corresponding passages of the draft.

Question 2 – Scope:

Is the proposed scope appropriate? If not, what changes do you propose, and why?

We believe that the amended definition of the scope of IAS 39 and IFRS 4 concerning financial guarantee contracts is appropriate.

In particular, we consider it appropriate that “financial guarantee contracts” with the character of credit insurance are therefore equated with all other forms of financial guarantee contracts, even though as “credit insurance” they would in principle also come under the definition of “insurance contracts”.

Through this, the equal treatment of formally comparable (insurance) contracts is abandoned in favour of equal treatment of economically comparable (financial guarantee) contracts.

We also support moving the valuation provisions from the “scope” section to the “measurement” section.

Question 3 – Subsequent measurement:

Is this proposal appropriate? If not, what changes do you propose, and why?

We consider that the subsequent measurement is appropriate.

The prescribed subsequent measurement (par. 47(c), AG4A (a) and IN3 (b) of this draft) at the higher of the amount determined in accordance with IAS 37 and the amount initially

recognised – less where appropriate amortisation in accordance with IAS 18 – results in the liability deriving from the payment commitment under the financial guarantee always being measured on the basis of the original estimate or on the basis of a later corrected higher estimate. This corresponds to the measurement described above which is in our opinion correct.

Question 4 – Effective date:

Are the proposed effective date and transition appropriate? If not, what do you propose, and why?

We support the proposed effective date.

Question 5 – Other comments:

Have you any other comments on the proposals?

We do not have additional comments on the proposals.

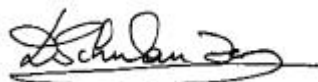
We are convinced that the standards would be substantially improved if these comments were given due consideration.

Should you wish to discuss any of the above mentioned points in further detail, please do not hesitate to contact us.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Schoppmann', followed by a vertical line.

Henning Schoppmann
EAPB

A handwritten signature in black ink, appearing to read 'Schwander', with a horizontal line underneath.

David Schwander
EAPB