

Date

15 September 2008

Le Président

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Comptables
Européens
AISBL

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Mr Gerrit Zalm
Chairman
IASCF
1st Floor
30 Cannon Street
London EC4M 6XH
United Kingdom

cc: Tamara Oyre
e-mail: constitutionreview@iasb.org

Dear Mr Zalm,

Re: Review of the Constitution: Public Accountability and the Composition of the IASB, Proposals for Change

1. FEE (Fédération des Experts Comptables Européens - Federation of European Accountants) welcomes the opportunity to comment on the Review of the Constitution: Public Accountability and the Composition of the IASB, Proposals for Change. FEE wishes to reiterate a number of the views expressed and the issues raised by Hans van Damme, FEE Deputy President, in the Roundtable of 19 June on the draft consultation document on the Monitoring Group and the composition of the IASB. We will also make some additional observations that resulted from further discussions in FEE on the final proposals which are published for consultation. Below are our responses to the questions raised.

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?*
2. In our earlier statements, we have underlined the importance of robust oversight and accountability arrangements to ensure broad acceptance of IFRS in Europe and elsewhere. The fact that, in Europe, IFRS become part of the legal framework through the endorsement mechanism, clearly adds a political dimension to the process. Consequently, the accountability of the IASB is of key importance, with a focus on appropriate democratic oversight and improved transparency. We believe that the creation of a link between the Trustees and the Monitoring Group of high-level people is an appropriate measure to establish such democratic oversight and to enhance the credibility of both the IASCF and the IASB. The Monitoring Group as proposed is a proper move to meet the need for an ongoing



dialogue between the Trustees and official international and regional public interest organisations with an interest in accounting standard-setting.

Q2 *The proposals contemplate a Monitoring Group comprising representatives of seven public authorities and international organisations 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 organisations accountable to public authorities and with an interest in the functioning of capital and other financial markets should be considered for membership.*

3. We believe that the proposed composition of the Monitoring Group, comprising the most senior individuals of the organisations, (in the highest level functions) listed in paragraph 21 of the draft proposals, is at the appropriate level. In our view, it is indeed crucial that the level is set at the highest seniority level, in order to be able to still attract high calibre senior individuals as IASCF Trustees. The composition of the Monitoring Group as proposed also adds to the credibility, reputation and standing of both the IASCF and the IASB. We support that a balanced composition of the Monitoring Group should be aimed at, but would not support extending its size.

4. In paragraph 21 of the draft proposals it is indicated that the "responsible member of the European Commission" will be a member in the Monitoring Group. We suggest that this description be made more specific and refer to "the European Commissioner with responsibility for financial reporting". We also believe that it is essential that the members of the Monitoring Group do not delegate their responsibility as a member of the group to other, lower ranked, officials.

Q3 *The Trustees will remain the body primarily responsible for the governance of the organisation 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' fulfilment of their constitutional duties. Does the formulation of the Monitoring Group's mandate and the Trustees reporting responsibilities, as described in the proposed Section 19, appropriately provide that link, while maintaining the operational independence of the IASC Foundation and the IASB?*

5. As discussed in paragraph 8 below, we believe that the appointment of the Trustees should remain with the existing body of Trustees. Consequently, the Monitoring Group should oversee the selection and appointment process and in that respect we would rather use the word "endorse" for the appointment of Trustees. We note that the Monitoring Group will also oversee whether and how the Trustees are fulfilling their obligations. We are strongly of the opinion that the Monitoring Group should not have any additional tasks beyond those mentioned in paragraph 18 of the proposals. We agree that the governance of the IASCF should remain with the Trustees and that the responsibilities of the Trustees remain unaltered. We believe for example that oversight of the IASB agenda is the primary responsibility of the Trustees.

6. We believe that the proposed paragraph 19 (c) of the Constitution, which is neither discussed nor explained in the Discussion Document goes beyond the tasks identified in paragraphs 18 and 22 of the current proposals and risks impeding the operational process. We suggest the scope of (c) be narrowed to aspects of governance only. In addition we believe that the Constitution should not specify what should be discussed in those meetings since these are operational matters. Accordingly, we propose the following revised wording for paragraph 19 (c): "in order to perform the responsibilities set out in sections 19 (a) and 19 (b) to meet the Trustees or a subgroup of the Trustees at least once annually, and more



frequently as appropriate. The Monitoring Group shall have the authority to request meetings with the Trustees or separately with the chairman of the Trustees (with the Chairman of the IASB as appropriate) *to discuss matters of governance.*

7. The involvement of the Monitoring Group in the appointment of the Trustees is best expressed in a neutral and balanced way in order not to cross the fine boundaries between accountability to the Group and control by the Group. This is discussed further in paragraph 8 below. One aspect of this is that the Monitoring Group should not be able to *recommend* candidates for Trustees. We fear that the ability to recommend candidates (that is, nominate candidates whilst expressing a strong preference for their appointment), especially in conjunction with powers to endorse or approve their appointment, would provide too much control to the Monitoring Group and the potential for each member of the Monitoring Group to put forward "their own" candidates for appointment. We believe that the Monitoring Group should be able to nominate candidates, for consideration by the Trustees along with other candidates, but without that strong preference which a "recommendation" carries. Therefore we suggest the following wording *changes* to the proposed Constitution:

Section prior to Section 17 "...agree a nominating process that will entitle the Monitoring Group to *nominate* candidates and provide..."

8. In light of the many (European) calls for enhanced accountability and democratic oversight, we accept the proposal for Monitoring Group oversight of the appointment of Trustees. Whilst we accept that the current system of self-appointment is not sustainable in today's financial reporting environment without such independent oversight, this entails that the Monitoring Group is strongly involved in the appointment process of the Trustees and endorses the selection of Trustees. The Monitoring Group should however exercise proper care in attempts to essentially controlling the appointment of new Trustees. Where the Monitoring Group has concerns as to the appointment of a new Trustee, they should be able to defer the appointment whilst they discuss their concerns with the existing Trustees and, if necessary, with the proposed new Trustee.

- 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?*

The Trustees would welcome any additional comments related to a Monitoring Group proposal.

9. Given the composition and tasks of the Monitoring Group, we see no need to maintain the Trustee Appointments Advisory Group. Keeping the Advisory Group would add unnecessary complexity. We emphasise the need as set out in paragraph 22 of the proposals for consultation by the Trustees with international organisations. The Trustees may still need an informal sounding process to identify and discuss potential candidates, but in our view this need not be by means of an official advisory group or committee.

Additional comments in relation to the Monitoring Group

10. We believe that the Constitution should also address the transparency issue in relation to the meetings of the Trustees, Chairman of the Trustees, or Chairman of the IASB with the Monitoring Group. We suggest that these meetings are public, except when personal matters are discussed as part of the Trustees appointment process, or that at least reports on these meetings are made publicly available.



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?*

11. We believe that the current proposals do not result in a properly balanced mechanism. In our opinion, countries that do and will use IFRS (on more than a limited basis) should be well represented on the IASB so that best use can be made of their experience with IFRS implementation and application in practice.
12. There are limitations to the maximum size a board can have whilst remaining able to operate collectively and assume collective responsibility for the resulting standards. We strongly believe that the existing model of one collective board needs to be maintained. In our view, any further increase beyond the proposed 16 members would make it more difficult to have the necessary in-depth technical discussions at the level of the Board as a group. We see a risk that a further expansion of the size could necessitate a move towards a structure whereby subgroups of Board members have the in-depth discussions and predetermine decisions for the Board as a whole. Such a move would be highly unwelcome.

Although we do not see an immediate need to increase the number of Board members, we have no strong objections to the IASB's proposal. However, we believe that 16 is the absolute maximum.

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

13. We strongly agree with the acknowledgement in paragraph 23 of the proposals that "professional competence and practical experience should remain paramount". There is indeed a need to ensure the diversity and legitimacy of the Board and the ability of the Board to consult, liaise and communicate properly across the world. Moreover a general acceptance of standards around the world requires sufficient diversity in professional, cultural, legal and educational backgrounds and in language skills. Such diversity can only be achieved by sufficient geographical spread. However, we see no need to introduce specific allocations for geographical areas, as this may unduly restrict the IASB's choice of the best candidate for the job.
14. In our opinion the Trustees need to demonstrate, in the form of public feedback statements on the appointment outcome, that the composition of the Board at any time meets the criteria of diversity, professional competence and practical experience with IFRS implementation and application.
15. However, if the geographical allocation as set out in paragraph 26 of the proposals were to be maintained we have strong doubts about the proposal to have four members from *North America*, which raises issues with respect to one-country dominance in the Board composition. As several countries in Latin America are making a move towards the adoption of IFRS we therefore suggest that paragraph 25 (a) should read: *four IASB members appointed from the Americas*. There would then be no need to have (e) one member from South America and (f) should then accordingly read "*three members appointed from any area, subject to maintaining overall geographical balance*"



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

The Trustees would welcome additional comments on the proposals.

16. We continue to believe that the IASB needs to maintain strong links with recent practical application of standards. Therefore, its members should have practical experience of the use of high quality financial reporting standards from present or recent past involvement in IFRS application and implementation, in addition to current and up to date knowledge of financial reporting. Part-time members are likely to be closer to practice. Recent and up to date experience from relevant industries and practice is needed. The current Board functioning is geared towards full time members and makes it difficult for part-time members to operate efficiently. It is very important for all members of the Board to stay in contact with practice and to create an environment that facilitates this, for example through a frequent, perhaps even mandatory, involvement by Board members in field-testing.
17. Although we welcome the suggested increase of part-time members to three, we are concerned about the flexibility that is proposed. This would imply that there could be no part-time members at a certain point in time. We believe that a minimum number of part-time members should be maintained and suggest this be 3 out of 16. However, the flexibility to include more part-time members is desirable. Therefore, we suggest that there should be no upper limit. We appreciate that there may be practical issues that make it difficult to involve a larger number of part-timers and that a proper balance needs to be maintained.
18. If the current proposals of introducing flexibility between zero and three part-time members are retained, the appointment and reappointment terms of Board members need to be reconsidered. Paragraph 25 of the Constitution indicates that members of the IASB shall be appointed for five years, renewable once. We are of the opinion that a period of ten years is very long and risks disconnecting members of the Board from practical experience in the application of the standards. If there is no longer a guaranteed counterbalance by part-time members, we call on the IASCF to reconsider the length of the appointment and reappointment periods.

Additional comments in relation to the IASB's composition.

19. The draft consultation document states in paragraph 30 that the Trustees propose maintaining the supermajority requirement in the Constitution (paragraph 30 of the current Constitution requires approval by 9 out of the 14 members of the IASB). The Constitution is suggested to be revised in the renumbered paragraph 36 to require approval by 9 members if there are fewer than 16 members and by 10 members if there are 16 members.
20. The importance and use of IFRS have increased in today's world. Publication of new standards and major changes to existing standards have a significant economic, legal and practical impact on the stakeholders involved. General acceptability of standards around the world require a demonstrable large majority support in the Board. Therefore, it is of crucial importance that exposure drafts and standards for global application, especially on controversial issues, are carefully considered and can count on broad support within the IASB as a prerequisite for their promulgation.
21. Accordingly, the super majority should continue to be required for voting on exposure drafts, revised IAS, IFRS or final interpretations of IFRIC. Given the need for high quality standards we suggest to include a supermajority of 11 out of 16 and at least 66.66% of the membership at the time of the vote.



22. With the exception of our comments in paragraphs 5 and 6 above, we will reserve our remaining comments, including observations on the agenda setting by the IASB and the SAC, for the second part of the Constitution review announced for this Autumn.

We would be pleased to discuss with you any aspect of this letter that you may wish to raise with us.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jacques Potdevin', written over a horizontal line.

Jacques Potdevin
President