Deloitte Touche Tohmatsu
2 New Street Square
London EC4A 3BZ
United Kingdom

Tel: +44 (0) 20 7936 3000
Fax: +44 (0) 20 7583 1198
www.deloitte.com

Direct: +44 20 7007 0907
Direct Fax: +44 20 7007 0158
kwild@deloitte.co.uk

Mr Gerrit Zalm, *Chairman*
International Accounting Standards Committee Foundation
30 Cannon Street
London, EC4M 6XH
United Kingdom

25 November 2009

Dear Mr Zalm,

Review of the IASCF Constitution:
Proposals for Enhanced Public Accountability

Deloitte Touche Tohmatsu is pleased to provide comments to the IASC Foundation Trustees on their exposure document *Part 2 of the Constitution Review: Proposals for Enhanced Public Accountability* issued in September 2009.

Our detailed responses to the invitation to comment questions are included in Appendix A to this letter. Appendix B addresses an issue not included in the invitation to comment, but which we wish to raise with the Trustees for further consideration and possible amendment of the Constitution. However, we wish to highlight certain critical issues in this cover letter.

We think that the Trustees' proposals with respect to consultation on the IASB's technical agenda and priorities do not go far enough. In our view, the Constitution should require the IASB to consult formally with constituents on a regular basis about the topics on its technical agenda and the relative priorities that have been assigned to those topics. The comment period must give constituents a realistic opportunity to comment on these matters.

We also recommend that the positions of IASB Chair and Chief Executive Officer of the IASC Foundation be separated. The IASCF and the IASB are under increasing public scrutiny from many jurisdictions and it is vitally important that there be no conflict of interest (real or perceived) between the roles of IASB Chairman and the chief executive of its oversight body.

We do not support the proposal to allow the Trustees, in exceptional circumstances, to authorise a shorter due process period. In order to maintain its credibility as an international standard-setter, the International Accounting Standards Board must expose all proposals for a period of time that affords all constituents a reasonable opportunity to understand, digest and comment on the IASB's proposals. As explained in Appendix A, our view is that permitting anything less than 30 days cannot be said to be proper 'due process'.

Finally, we have concerns about the operations and output of the International Financial Reporting Interpretations Committee. We do not wish to see the IFRIC become an urgent issues group, but we think that there are issues that could be addressed efficiently by the IFRIC, but which—because of the Constitution's mandate for the IFRIC and the operating procedures documented in the IFRIC's *Due Process Handbook*—are referred to the IASB for action. In Appendix B we offer some suggestions about how the IFRIC's role and mandate could be reformed to make better use of the Committee.

If you have any questions concerning our comments, please contact Ken Wild in London at +44 (0)20 7007 0907.

Yours sincerely,

Ken Wild

Global IFRS Leader

Appendix A

Question 1

The Trustees seek views on the proposal to change the name of the organisation to the 'International Financial Reporting Standards Foundation', which will be abbreviated to 'IFRS Foundation'.

The Trustees also seek views on the proposal to mirror this change by renaming the International Accounting Standards Board (IASB) as the International Financial Reporting Standards Board, which will be abbreviated to 'IFRS Board'.

Do you support this change in name? Is there any reason why this change of name might be inappropriate?

Whilst this proposal could be supported as a 'housekeeping item', and in keeping with many of the Trustees' proposals, we do not think that this change should be a priority. In our view, 'IASB', 'IASC Foundation', etc are well-known 'brands' in the international community and there is little to gain at present with changing the name of the organisation or its operating units. The Trustees should, instead, focus their attentions on more fundamental matters such as improving the IASB's due process and the Trustees' oversight thereof, and the funding of the organisation.

Question 2

The Trustees seek views on the proposal to replace all references to 'accounting standards' with 'financial reporting standards' throughout the Constitution. This would accord with the name change of the Foundation, the Board and the formal standards developed by the IASB—International Financial Reporting Standards (IFRSs).

Do you support this change?

We support the proposal. We note that in our comment letter dated 31 March 2009 we made a similar suggestion.

Question 3

The Trustees seek views on their proposal to change section 2 as follows:

The objectives of the ~~IASC~~ IFRS Foundation are:

(a) to develop, in the public interest, a single set of high quality, understandable, ~~and~~ enforceable and globally accepted ~~accounting~~ financial reporting standards that require high quality, transparent and comparable information in financial statements and other financial reporting to help participants in the world's capital markets and other users make economic decisions;

(b) to promote the use and rigorous application of those standards;

(c) in fulfilling the objectives associated with (a) and (b), to take account of emerging economies and, as appropriate, the special needs of small and medium-sized entities ~~and emerging economies~~; and

(d) to bring about convergence of national accounting standards and ~~International Accounting Standards and~~ International Financial Reporting Standards (IFRSs, being the standards and interpretations issued by the IFRS Board) to high quality solutions.

Do you support the changes aimed at clarity?

We support the proposal to continue to limit the Board's responsibilities to private sector, business-oriented entities. In our 31 March 2009 comment letter we stated that the IASB should continue to concentrate on private sector matters, but should also continue to cooperate with the International Public Sector Accounting Standards Board and that the IASB should not be tasked with setting not-for-profit standards, etc at the moment. (We address interaction with the IPSASB and other organisations with a legitimate interest in financial reporting standards in our response to Question 8, below.)

In addition, we support the clarification as to separating 'emerging economies' and 'small and medium-sized entities' and ensuring that the expression used by the IASB in their standard-setting activities and the Constitution is the same. In our 31 March 2009 comment letter, we noted that the term 'emerging economies' is misunderstood, and continue to think that the Trustees should clarify their intention. Should constituents read the term as referring to 'second tier' economies (e.g. Argentina, Brazil, China, India, Russia, etc) or to developing economies? If it is the second, then to avoid misunderstanding (and thus raising expectations unnecessarily), we suggest that the term 'emerging economies' should be replaced with the term 'developing countries and economies in transition', a term developed by UNCTAD-ISAR.

We note that the Trustees have decided against embedding 'principles-based' or a similar characteristic of financial reporting standards in the Constitution. We urge the Trustees to reconsider this decision. In our 31 March 2009 comment letter we suggested that the IASCF should require that the IASB develop financial reporting standards that are based on 'clear principles', and suggested language for a 'clear principles' approach. We continue to support a reference in the Constitution to financial reporting standards being based on 'clear principles', with appropriate elaboration in the IASB's *Due Process Handbook*.

Question 4

The Trustees seek views on the proposal to amend section 3 of the Constitution as follows:

> The governance of the ~~IASC~~ IFRS Foundation shall primarily rest with the Trustees and such other governing organs as may be appointed by the Trustees in accordance with the provisions of this Constitution. A Monitoring Board (described further in sections 18–23) shall provide a formal link between the Trustees and public authorities. The Trustees shall use their best endeavours to ensure that the requirements of this Constitution are observed; however, they ~~are empowered to~~ may make minor variations in the interest of feasibility of operation if such variations are agreed by 75 per cent of ~~all~~ the Trustees.

Do you support this clarifying amendment?

We would support the proposed amendments.

Question 5

The Trustees seek views on the proposal to amend section 6 of the Constitution as follows to include one Trustee from each of Africa and South America:

All Trustees shall be required to show a firm commitment to the IFRS ~~IASC~~ Foundation and the IFRS Board ~~IASB~~ as a high quality global standard-setter, to be financially knowledgeable, and to have an ability to meet the time commitment. Each Trustee shall have an understanding of, and be sensitive to, the challenges associated with the adoption and application of high quality global ~~accounting~~ financial reporting standards developed for use in the world's capital markets and by other users. The mix of Trustees shall broadly reflect the world's capital markets and diversity of geographical and professional backgrounds. The Trustees shall be required to commit themselves formally to acting in the public interest in all matters. In order to ensure a broad international basis, there shall be:

(a) six Trustees appointed from the Asia/Oceania region;

(b) six Trustees appointed from Europe;

(c) six Trustees appointed from North America; and

(d) one Trustee appointed from Africa;

(e) one Trustee appointed from South America; and

(f)~~(d)~~ two ~~four~~ Trustees appointed from any area, subject to maintaining establishing overall geographical balance.

Do you support the specific recognition of Africa and South America?

We support the proposals for specific seats for Africa and South America.

In our 31 March 2009 comment letter, we asked that the Trustees document how the geographical distribution is determined. We note that participants at the Constitution roundtables in London and New York held in September and October 2009 expressed similar concerns. We reiterate our view that *how* the geographical distribution is determined should be documented by the Trustees in a publicly-available document.

Question 6

The Trustees seek views on the proposal to amend section 10 of the Constitution as follows to allow up to two Trustees to be appointed as vice-chairmen of the Trustees.

The Chairman of the Trustees, and up to two Vice-Chairmen, shall be appointed by the Trustees from among their own number, subject to the approval of the Monitoring Board. With the agreement of the Trustees, regardless of prior service as a Trustee, the appointee may serve as the Chairman or a Vice-Chairman for a term of three years, renewable once, from the date of appointment as Chairman or Vice-Chairman.

Do you support the constitutional language providing for up to two Vice-Chairmen?

We support the proposal, subject to the following.

There should be a maximum term limit (as there is proposed for the IASB members in Question 9). As written, the Constitution would allow a Trustee to serve for 18 years (6 as Trustee; 6 as Vice-Chair; and 6 as Chair). A maximum term of 9 years (as we have seen with one currently-serving Trustee) seems appropriate and would balance experience with longevity.

Question 7

The Trustees seek views on the proposal to make no specific amendments to sections 13 and 15, but to address the valid and important concerns raised by commentators by way of enhanced accountability, consultation, reporting and ongoing internal due process improvements.

We support the proposals. The Trustees' proposals are consistent with our 31 March 2009 comment letter, in which we expressed concern that the operations of the Trustees (paragraph 13(b)) were not well understood and that some of the stress on the organisation stemmed from this lack of understanding. We encouraged the Trustees to document their operating procedures in a manner similar to the IASB, IFRIC and SAC.

Question 8

Section 28 would be amended as follows:

> The ~~IASB~~ IFRS Board will, in consultation with the Trustees, be expected to establish and maintain liaison with national standard-setters and other official bodies ~~concerned~~ with an interest in standard-setting in order to assist in the development of IFRSs and to promote the convergence of national accounting standards and ~~International Accounting Standards and International Financial Reporting Standards~~ IFRSs.

Do you support the changes aimed at encouraging liaison with a broad range of official organisations with an interest in accounting standard-setting?

In our 31 March 2009 comments, we observed that "nothing in the Constitution prohibits the IASB from cooperating or collaborating with any other body with a legitimate interest in financial reporting standards... This collaboration contributes to the success of IFRS as a global reporting language, but we think that it is an operational aspect of standard-setting" and that the IASB's Due Process Handbook should be amended accordingly.

We support the proposed amendment to Section 28, supported by appropriate elaboration in the IASB's *Due Process Handbook*.

Question 9

The Trustees seek views on the proposal to amend section 30 of the Constitution as follows to permit the appointment of up to two Board members to act as vice chairmen of the IASB.

> The Trustees shall appoint one of the full-time members as Chairman of the ~~IASB~~ IFRS Board, who shall also be the Chief Executive of the ~~IASC~~ IFRS Foundation. ~~One~~ Up to two of the full-time members of the ~~IASB~~ IFRS Board ~~shall~~ may also be designated by the Trustees as a Vice-Chairman, whose role shall be to chair meetings of the ~~IASB~~ IFRS Board in the absence of the Chairman or to represent the Chairman in external contacts ~~in unusual circumstances (such as illness)~~. The appointment of the Chairman and the designation as Vice-Chairman shall be for such term as the Trustees decide. The title of Vice-Chairman would not imply that the ~~individual~~ member (or members) concerned is (or are) the Chairman-elect.

We support the proposal, subject to the following:

The Constitution currently provides (and would continue to provide) that the IASB Chairman shall also be the CEO of the IASC Foundation. The IASC Foundation and the IASB are under increasing public scrutiny from many jurisdictions and it is our view that

it is vitally important that there be no appearance of conflict of interest within the organisation. Given the apparent conflict of interest between the roles of IASB Chairman and the chief executive of its oversight body, we recommend that the IASC Foundation and the standard-setting activities be separated completely by appointing a CEO of the IASCF, one who is not a member of the IASB or the IASB/ IFRIC staff. This would have the added benefit of allowing the IASB Chairman to concentrate on the technical agenda and operations of the IASB.

Question 10

The Trustees seek views on the proposal to amend section 31 to allow for altered terms of appointment for IASB members appointed after 2 July 2009.

The proposed amendment is to allow for Board members to be appointed initially for a term of five years, with the option for renewal for a further three-year term. This will not apply to the Chairman and Vice-Chairman, who may be appointed for a second five-year term. The Chairman or Vice-Chairman may not serve for longer than ten consecutive years.

The proposed amendments to section 31 are as follows:

> Members of the ~~IASB~~ IFRS Board appointed before 2 July 2009 shall be appointed for a term of up to five years, renewable once for a further term of five years. Members of the IFRS Board appointed after 2 July 2009 shall be appointed initially for a term of up to five years. Terms are renewable once for a further term of three years, with the exception of the Chairman and a Vice-Chairman. The Chairman and a Vice-Chairman may serve a second term of five years, but may not exceed ten years in total length of service as a member of the IFRS Board.

Do you support the change in proposed term lengths?

In our view, the proposal strikes an appropriate balance between keeping the 'practical experience of IFRS' fresh on the IASB; the fear of some constituents that the IASB tends toward an 'Ivory Tower' syndrome; and the very real need for continuity in standard-setting.

We are aware that some have questioned whether five years is too long for the initial appointment, particularly when a Board member appears to be having difficulty in the role. However, given the fact that all full-time IASB members are asked to sever all employment relationships and any economic incentives that might call their independence and judgement into question (Constitution paragraph 31 (32)), we continue to support a five year initial appointment as this is an appropriate period to ask persons best suited to the work of the IASB to commit to the organisation. We note also that the Trustees review the performance of Board members on a regular basis, and if a member is seen consistently to be operating below expectations, the Trustees have the power under Constitution section 16 to act appropriately.

Question 11

The Trustees seek views on the proposal to insert in section 37 (to become section 38) of the Constitution an additional subsection as follows to allow the Trustees, in exceptional circumstances, to authorise a shorter due process period. Authority would be given only after the IASB had made a formal request. The due process periods could be reduced but never dispensed with completely.

The ~~IASB~~ IFRS Board shall:

(a) ...

(b) ...

(c) in exceptional circumstances, and only after formally requesting and receiving prior approval from the Trustees, reduce, but not eliminate, the period of public comment on an exposure draft below that described as the minimum in the Due Process Handbook.

We do not support this proposal. Having considered this matter carefully, we are of the view that to maintain its credibility as an international standard-setter, the IASB must expose all proposals for no less than 30 days. Allowing anything less than 30 days for constituents to receive the invitation to comment, understand the issue and the IASB's proposed actions cannot be said to be 'due process'. This is especially true when translating into a language other than English, and/ or consulting and agreeing a response internationally are involved.

In addition, we remain very concerned that the IASB should not bypass its due process in response to pressure from any region or jurisdiction.

Question 12

The Trustees seek views on the proposal to amend section 37(d) (to become section 38) of the Constitution as follows to expressly provide that the IASB must consult the Trustees and the SAC when developing its technical agenda.

The ~~IASB~~ IFRS Board shall:

~~(c)~~(d) have full discretion in developing and pursuing the technical agenda of the ~~IASB~~ IFRS Board, after consulting the Trustees (consistently with section 15(c)) and the SAC (consistently with section 44(a)), and over project assignments on technical matters: in organising the conduct of its work, the ~~IASB~~ IFRS Board may outsource detailed research or other work to national standard-setters or other organisations;

The IASB agenda and how it is set is, quite simply, one of the most critical aspects of what the IASB does, because without the support of constituents as to what the IASB should be addressing, the Board risks losing the support of those constituents for the output.

We think that section 37(c) [(38)(d)] should require the IASB to consult formally with constituents on a regular basis about the topics on its technical agenda and the relative priorities that have been assigned to those topics. The invitation to comment should present the topics on the technical agenda, potential topics and the IASB's assessment of their relative priority, including any changes proposed to those priorities (i.e., adding or removing resources). The comment period must give constituents a realistic opportunity to comment on these matters.

We acknowledge and welcome the active involvement of the IASCF's Due Process Oversight Committee and the Standards Advisory Council in the agenda-setting process, but believe that those forums are insufficient in the IASB's case to ensure that all points of view are captured.

Other than the above, we agree that extensive changes to the Constitution are not necessary, but encourage the IASB to amend and update their *Due Process Handbook*.

The following matters, raised in our comment letter in March 2009, should also be incorporated in the revisions to the IASB's Due Process Handbook:

- The IASB must have the discretion to make changes to its technical agenda without excessive interference. However the Board should justify any such changes; and the Trustees should review specifically the exercise of that discretion as part of its annual review. The Board needs the ability to be flexible, while in normal circumstances maintaining its wide consultation with constituents, the SAC and others.

- We continue in the view that one way in which the IASB could enhance its due process would be to require a substantive redeliberation of a preliminary view if there is *a substantial un-orchestrated level of opposition* to a principle. The IASB would need to debate why so many constituents were opposed to the IASB proposal. Nor should they ignore opposition on conceptual grounds: often opposition is based on practical considerations that the IASB may not have considered or deliberated in depth.

- The IASB should also be encouraged to conduct field tests when their proposals are controversial or change existing practice in an *untested* manner. These field tests should be conducted in a variety of jurisdictions to demonstrate that the proposal is a substantively better treatment than any other.

- The Board should be encouraged to make a preliminary assessment of the practical and cost/ benefit consequences of a particular approach before committing itself to that approach.

The current agenda of the IASB is very challenging: for the Board; for the staff; and for constituents who are expected to comment on IASB proposals, let alone for preparers who must cope with the changes. As part of its oversight activities, the Trustees should ensure that the current agenda of the IASB is reasonable and feasible and that the priorities are appropriate. The SAC should participate in assessing priorities and advising the IASB if those priorities should be changed.

Question 13

Trustees seek views on the proposal to make no amendment to sections 44 and 45 (renumbered as 45 and 46), which are the provisions relating to the SAC, at this time.

We agree that, given that the Standards Advisory Council has recently been reconstituted, it should be given the opportunity to develop organically over the current review cycle and that the Trustees should reassess it in the next review cycle.

We note that the SAC now has dedicated resources, a development we support and which we think should allow it to be more effective. We also note that the SAC Chairman has been pro-active in involving the SAC out-of-session to provide input to important consultations (e.g., the SAC made a submission to FCAG on its draft report). No doubt the SAC Chairman will continue to ensure that the SAC develops and becomes a more effective panel. The Trustees should encourage this to happen, without excessive unnecessary interference.

Question 14

The Trustees seek views on the proposal to amend section 48 by removing specific staff titles and replacing it with the term 'the senior staff management team'. Accordingly section 49 should be deleted.

The Trustees also seek comment on the proposal to update the Constitution by removing all historical references that relate to when the organisation was established in 2001.

We support the proposal and note that this is consistent with our comments in our letter of 31 March 2009.

Appendix B

Matters not addressed in the Invitation to Comment

International Financial Reporting Interpretations Committee

We are aware of a growing level of dissatisfaction with the operations and output of the IFRIC. While we do not wish to see the IFRIC become an urgent issues group, with an output of authoritative guidance similar to the US Emerging Issues Task Force, we are concerned that there are issues that could be addressed efficiently by the IFRIC, but which—because of the Constitution's mandate for the IFRIC and the operating procedures documented in the IFRIC's *Due Process Handbook*—are referred to the IASB for action. To us, this seems a poor use of the IFRIC's members' time and a waste of IASC Foundation resources. As such, the IFRIC should be reformed or abolished.

We favour reform of the IFRIC rather than its abolition. We think that the composition of the IFRIC, representing the best available combination of technical expertise and diversity of experience in the practical application of and analysis of financial statements prepared in accordance with IFRSs (*cf* Constitution, section 39) makes it much more suited to some of the tasks currently undertaken by the IASB, especially in relation to the Annual Improvements Process and other targeted amendments to IFRS. Many of the issues included in the Annual Improvements Project are referred to the IASB from the IFRIC and are practical issues involving conflicts within or among IFRS with which members of the IFRIC are familiar and are well-placed to address. We understand that the IASB suggested in November 2009 that the IFRIC assume responsibility for the Annual Improvements process and we support this move.

We think that the requirement in paragraph 8 of the IFRIC's *Due Process Handbook* that when "the IFRIC believes that an IFRS or the Framework should be modified or an additional IFRS should be developed, it refers such conclusions to the IASB for its consideration" places an unnecessary restriction on the IFRIC, particularly when the most appropriate resolution is apparent and has the support of a sufficient majority of the IFRIC to proceed.

We would recommend that the Constitution be amended such that the IFRIC shall "interpret the application of ~~International Accounting Standards (IASs) and~~ International Financial Reporting Standards (IFRSs)<u>;</u> ~~and~~ provide timely guidance on financial reporting issues not specifically addressed in ~~IASs and~~ IFRSs<u>, including conflicts within and among IFRS which can be resolved in a timely manner</u> in the context of the IASB *Framework*~~,~~<u>;</u> and undertake other tasks at the request of the IASB" [Constitution, section 43(a)].

In addition, the section of IFRIC's *Due Process Handbook* addressing the Responsibilities of the IFRIC and scope of its work should be revised to reflect this revised mandate, including explicit reference to their responsibility for the Annual Improvements process.