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Messieurs

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Dear Madam, dear Sir,

Consultative Report on the Review of the IFRS Foundation's Governance

The European Banking Authority (EBA), which has come into being as of 1 January 2011, welcomes the opportunity to comment on the Monitoring Board's Consultative Report on the Review of the IFRS Foundation's Governance.

The EBA has a strong interest in promoting sound and high quality accounting and disclosure standards for the banking and financial industry, as well as transparent and comparable financial statements that would strengthen market discipline.

More generally, the EBA appreciates the work done by the Monitoring Board and welcomes the efforts to review the IFRS Foundation's governance.

The financial crisis has shown the importance of appropriate financial reporting and disclosures with respect to market confidence. While the EBA supports the current mission statement focusing on decision-relevant information for investors and other users of financial information, we believe that financial stability considerations should be given appropriate weight in standard setting. In our view this is best achieved through wider engagement of financial stability authorities in the standard setting process.

At the same time it should also be foreseen to include - in the organisation's framework (in particular in objectives and qualitative characteristics of financial reporting) or in its constitution - an explicit reference to the impact on financial stability as one of the aspects that must be considered when developing accounting standards.

Though the EBA agrees that investors are important users financial statements, they are not the only category of users. Financial statements are an important source of information for prudential supervisors; in fact they complement supervisory prudential reports. In addition prudential reporting is, to a large extent, based on accounting numbers. While supervisors can impose adjustments or filters in certain areas (such as capital), this is sub-optimal, not least because it creates extra costs for institutions.

For that reason, while recognising the objectives of financial and prudential reporting, supervisors would prefer to keep the financial and prudential reporting in line as closely as possible, and to reflect the interests of supervisory authorities in the definition of users.

In light of these remarks the EBA would like to encourage the Monitoring Board, to strengthen the governance structure of the IFRS Foundation through broadening the role and the membership of the Monitoring Board and ensuring appropriate oversight of the IASB. This should reinforce confidence of markets and users in IFRS and the IASB. The Monitoring Board is also encouraged to oversee the IASB's efforts to continue cooperating with prudential authorities.

At the same time there are concerns that the scale of the review of the Monitoring Board and the related recommendations are not ambitious enough and should also look at the objectives of the framework for financial reporting and the definition of users.

Our comments on the various questions in the consultation document - in the appendix to this cover letter - reflect these general views.

If you have any questions regarding our comments, please feel free to contact Mr. Elbaum (+33.1.4292.5801) in his capacity as Chairman of the EBA Expert Group in charge of monitoring developments in the accounting area or Mr. Colinet (+ 32.2.220.5247) in his capacity as Chairman of the technical group in that area.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Andrea Suvry". The signature is fluid and cursive, written in a professional style.

EBA Chairperson

Responses to questions included in the consultation report

IASB:

Question 1:

- Do you agree with the proposal to urge concrete efforts to deepen the pool of candidates for IASB membership from diverse geographical and professional backgrounds? Please provide reasons for your agreement/disagreement.

Generally the EBA agrees with the proposal to deepen the pool of candidates for IASB membership from diverse geographical and professional backgrounds. Both diverse geographical and professional background of members have to be reflected in the composition of the Trustees and the Monitoring board. For the IASB it is paramount to ensure a diverse geographical background reflective of the application of the standards, whilst maintaining the appropriate technical expertise.

As noted in our general comments, there are concerns that the scale of the review of the Monitoring Board and the related recommendations are not ambitious enough and should also look at the objectives of the framework for financial reporting and the definition of users. The results of such an extended review should then also be reflected in the composition of the governing bodies.

Question 2:

- Do you agree with the proposal to separate the roles of the IASB Chair and the CEO of the IFRS Foundation, and if so would you have suggestions on how to formalize this? Please provide reasons for your agreement/ disagreement.

While the dual role ensures an efficient connection between the standard-setter and its governing body and full knowledge of the actual operational and technical needs, a separation would allow the two 'executives' to fulfill the growing demands of their roles, especially against the background of an increased use and application of IFRS. In addition, a separation would avoid potential conflicts of interest.

In case a separation will be decided, interaction and exchange between the IASB Chair and the CEO of the Foundation should be ensured by having the chair attend the Foundation meetings and having the CEO attend the Board meetings. Furthermore, we would recommend the establishment of a formal two-way reporting line between the IASB Chair and the CEO of the IFRS Foundation to ensure that both get the information they need for a proper fulfillment of their respective duties

Question 3:

- Do you agree that clearer division of responsibility between staff dedicated to the IASB operations and staff dedicated to the Foundation's administrative and oversight functions should be considered, and if so would you have suggestions on how to formalize this? Please provide reasons for your agreement/disagreement.

The EBA sees some merit in a division of responsibilities between staff dedicated to the IASB operations and staff dedicated to the Foundation's administrative and oversight functions. As is the case for the question of separating of the role of the IASB Chair and the CEO of the IFRS Foundation, this could be justified as a safeguard to avoid any conflicts of interests.

In addition such a division could help clarifying staff responsibilities, although attention should be paid to ensuring sufficient contacts and exchanges between the two staff groups.

Trustees:

Question 4:

- Please provide comments on any aspects of Trustee composition or appointments that you believe the Monitoring Board should consider.

Irrespective of our general comments, the EBA would favour that the composition of the governing bodies reflects the application of IFRS from a geographical point of view.

The Monitoring Board could further investigate whether participation in the governing bodies should be linked to a commitment to adopt IFRS. Although there might be a risk that non-users would be deterred, with the possible result of widening the gap between IFRS and other accounting frameworks, this could also provide an incentive for countries to move to International Financial Reporting Standards.

Question 5:

- Do you agree with the proposal to provide increased transparency into the process for Trustee nominations? Please provide reasons for your agreement/disagreement. To what extent should the Monitoring Board be involved in the nomination process?

- Do you agree that further clarification of criteria for the Trustees' candidacy would help support confidence of the stakeholders? Please provide reasons for your agreement/disagreement.

The EBA welcomes the proposal to increase the transparency of the process for Trustee nomination and in particular a clarification of criteria for candidacy. Increased transparency could help to avoid doubts on the proper operation of the nomination process.

Monitoring Board:

Question 6:

- Should the membership of the Monitoring Board continue to be confined to capital markets authorities responsible for setting the form and content of financial reporting in respective jurisdictions?

- Do you agree with the proposal to expand the Monitoring Board's membership by adding a mix of permanent members ([four]) representing primarily major emerging markets and rotating members ([two]) from all other markets? Please

provide reasons for your agreement/disagreement. How should the major markets be selected? Should a jurisdiction's application of IFRSs and financial contribution to standard-setting play a role?

- Do you agree that rotating members should be selected through IOSCO? Please provide reasons for your agreement/disagreement.

The EBA does not believe that the membership of the Monitoring Board should continue to be confined to capital markets authorities responsible for setting the form and content of financial reporting in respective jurisdictions.

Generally speaking, we support the three-tier governance structure. As set out in our response to the Trustees' Strategy review, we believe that the role of the most senior tier ensuring proper accountability to public authorities could be best assumed by a publicly and politically legitimated oversight body.

In that response we note that a body like the Financial Stability Board (FSB) could be a natural candidate for this purpose not only because of its geographic reach, covering all the main users of international accounting standards, but also because it is reflecting the different financial regulatory disciplines that have the most interest in the substance of the standards.

The fact that the FSB includes governments as well as central banks and regulators and ultimately reports to the G20 means that it can bring the political legitimacy which is currently lacking in the existing arrangements. In fact, a role in governing standards setters is already foreseen in the FSB's Charter which states that the FSB shall, "undertake joint strategic reviews of the policy development work of the international standard-setting bodies to ensure their work is timely, coordinated, focused on priorities and addressing gaps." ¹

Irrespective of whether the FSB is chosen as the body ensuring proper accountability to public authorities, we believe that the role of the most senior tier should ensure accountability to public authorities that represent all users of financial statements and not only investors.

The membership of the Monitoring Board should be extended by including, amongst other regulators, voting members from the banking supervision sphere. The composition criteria should obviously respect a geographical balance although they should also adequately involve representatives of countries / regions that are users of IFRS. In addition, it should be further considered to increase the involvement of bodies with international / regional mandates such as the European Banking Authority.

In any case, the Monitoring Board should improve its transparency and effectiveness. It is currently too opaque, which is inconsistent with a standard setting body that demonstrates a high degree of transparency. The effectiveness of the Monitoring Board should be subject to periodic reviews.

Question 7:

- Do you agree that the Monitoring Board should continue to make its decisions by consensus? Please provide reasons for your agreement/disagreement. Are

¹ FSB Charter, Article 2 (1) (e)

there any types of decisions taken by the Monitoring Board for which voting other than by consensus (for example, by qualified majority) may be appropriate? If so please describe why and suggest an appropriate voting mechanism

To the extent that the membership of the Monitoring Board is expanded the application of a consensus principle for its decision-making process might be challenging. Nevertheless, given the responsibilities of the Monitoring Board it is felt that it would be appropriate to maintain the consensus principle.

Question 8:

- To ensure increased involvement of public authorities and other international organizations in Monitoring Board activities, do you support the Monitoring Board (a) expanding the number of Monitoring Board observers, (b) holding more formalized dialogue, or (c) establishing an advisory body, and on what basis? What should be the criteria for selecting participants?

As the most senior tier authority in the overall governance structure of the IASB, and given that IFRS are used and relied upon by many different stakeholder groups, it is important that the Monitoring Board has credibility for those stakeholders. We believe this could be better achieved by having a wider membership for the Monitoring Board.

As key stakeholders, the EBA would prefer if prudential regulators and international organisations were given full membership in the Monitoring Board. In addition to the reasons put forward in the cover letter, prudential regulators strongly support transparent reporting to meet the needs of investors but also other stakeholders such as deposit holders (and insurance policy holders).

We are not convinced about the necessity to create an advisory body as this would further complicate the governance structure of the IASB. In addition, we do not see a clear role for such an entity, not least as it may be confused with the IASB's Advisory Council.

Question 10:

- What are the appropriate means and venues for the Monitoring Board to enhance the visibility and public understanding of its activities?

If the governance function of the Monitoring Board is clarified and reinforced, the visibility and the public understanding of its activities should be strengthened accordingly. The means and venues listed in the paper (publication of written records of Monitoring Board deliberations, increased use of press releases, strengthening the exposure of Monitoring Board members' views to the media and wider audiences) seem to be appropriate for this purpose, though we could also see merit in the Monitoring Board having its own web-site to emphasize its separate status from its members.

Question 11:

- Do you believe that the current arrangements for Monitoring Board involvement in the IASB's agenda-setting are appropriate, or should the Monitoring Board

have an explicit ability to place an item on the agenda, or would you consider other alternatives that would enhance the Monitoring Board involvement in the IASB agenda setting? Please provide reasons.

In the revised structure, we envisaged that the Monitoring Board would have more of a role in oversight including a role in the nomination process of the IASB, the approval of the conceptual framework and of strategic orientations (with due consideration of the impact of the latter on the IASB's agenda).

However, with the Monitoring Board as the most senior level of governance, we believe their role should be to ensure that the Trustees fulfill their oversight role effectively. It is also important, for the credibility of the process, that the Trustees are seen to be exercising this oversight

Question 12:

- Do you have concrete suggestions on how the Monitoring Board or the Trustees could encourage a move towards a more stable and independent funding model?

In accordance with the views expressed in the context of the Trustees Strategy review the EBA considers that financing should be organised in such a way that independence of standard setting is ensured and that a secure, stable funding mechanism is in the interest of the IASB carrying out its agenda (as well as being an important factor in the US adopting IFRS).

The EBA believes that this requires funding to be non-voluntary for those jurisdictions that apply IFRS or are in the process of converging. However, jurisdictions should retain some flexibility in determining the mechanism for collection.

Whether funding should be linked to participation in the governance is a matter that has to be further considered, as the involvement of non-users may lead to further convergence with and adoption of IFRS. At the same time, the funding by non-users should not pose a threat to the independence of the IFRS Foundation and its governing bodies. Similarly it needs to be further considered whether participation in the governance should be linked to a commitment to adopt IFRS. While this is an interesting idea, there might be a trade-off in the sense that non-users would be deterred, with the possible result of widening the gap between IFRS and other accounting frameworks.

Question 13:

- Do you believe that the Monitoring Board should have a more prominent role in the selection of the IASB Chair? Do you agree with the proposal that the role include involvement in establishing a set of publicly disclosed criteria for the Chair, and assessment of a short list of candidates against those criteria? Please provide reasons.

- Do you believe that the Monitoring Board should be given any further, specific role in the selection of the IASB Chair? In particular, should the Monitoring Board approve the Trustees' final selection? Please provide reasons.

The EBA is of the view that the Monitoring Board - in addition to having a role in the approval of the conceptual framework and of strategic orientations - should

also have an expanded role in the nomination of Board members and of the IASB Chair.

As regards the nomination of the Board members and of the IASB Chair, it is important to ensure transparency and the application of objective criteria. The Monitoring Board should be involved in ensuring that the Trustees have set appropriate criteria as well as in ensuring compliance and related transparency.

Moreover, the Monitoring Board could be called upon to assess a short list of candidates, and possibly even to confirm that final selection.

Question 14:

- Do you agree that the Monitoring Board's responsibilities should explicitly include consultation with the Trustees as they further develop the framework to ensure proper balance in the composition of the IASB? Please provide reasons for your agreement/disagreement.

The EBA holds the view that the Monitoring Board must act in a transparent and accountable way and this includes transparency towards the Trustees. It is however not clear what would be the procedural consequences of the suggested explicit consultation with the Trustees.

Question 15:

- Do you agree with the proposal to consider establishing a permanent secretariat for the Monitoring Board to support its increasing roles in overseeing the governance of the standard-setter? Would you support this proposal even if it would require additional financial contributions from stakeholders? Please provide reasons.

The EBA welcomes the proposal to establish a permanent secretariat for the Monitoring Board to support it and make the Monitoring Board more effective. While this implies funding issues, these could be addressed in the overall funding process of the foundation. At the same time, it should be ensured that the structure of a permanent secretariat remains lean and cost-efficient.

Other questions:

Question 9:

- Do you believe that the current arrangements for the standard-setting process adequately ensure the appropriate involvement of all relevant stakeholders and that all relevant public policy objectives are taken into account? Please provide reasons for your agreement/disagreement.

Question 16:

- Do you agree with the need for regular reviews, and the interval of five years as a benchmark? Should the reviews be aligned with the timing of the Foundation's mandated Constitution reviews? Please provide reasons for your agreement/disagreement.

Question 17:

- Do you have any other comments?

The IASB has, as part of its standard-setting process, widely engaged with stakeholders, although there is room for further improvements. In addition to our general comments, practical improvements should include the following:

- Use of field testing before the introduction of a new accounting standard and undertaking of ex-post analysis of new rules in order to evaluate the effects they had on financial statements.
- Allocation of sufficient resources to meet market participants, especially prior to developing EDs, in order to assess the impact of the new proposals by means of market failure and cost-benefit analyses.
- Development of clear criteria for re-exposure of EDs.

The EBA also believes that, post-2011, there should be a period of calm and stability in accounting standards. The IASB's role is to produce standards and adequate application guidance. Proper consideration however also needs to be given to the number of proposals being published within relative short spaces of time. An overload of new accounting standards could affect the proper implementation of standards by preparers. In that context, we welcome the opportunity to comment on the forward agenda and to respond to the recent request for views on effective dates and implementation methods.

Preparers will face significant changes when they implement all the new standards that the IASB is currently developing, and so the implementation process will inevitably reveal issues that the IASB will need to consider (especially given that they have completed many of the projects on a rather compressed timescale). The increase in countries adopting IFRS could exacerbate these pressures. We would encourage the Foundation to ensure that the IASB's (and IFRS IC's) agenda allows sufficient time and resources to deal with these issues.

The EBA agrees with the need for regular reviews of the Governance structure. A five year interval for reviews seems appropriate as a benchmark. It is however important that these reviews are aligned with the timing of the reviews mandated by the Foundation's Constitution.

Finally, concerns have been noted around the composition of the IASB staff. The Monitoring Board might therefore want to recommend reviewing the principles governing the staff selection in a way that ensures appropriate and diversified technical expertise in the area of financial reporting and at the same time a diversified geographic diversification.