



THE INSTITUTE
OF CHARTERED
ACCOUNTANTS
IN ENGLAND AND WALES

30 March 2009

Our ref: ICAEW Rep 40/09

Your ref:

Göran Tidström
Chairman
EFRAG Supervisory Board
Technical Expert Group
EFRAG
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By email: commentletter@efrag.org

Dear Göran

REVIEW OF THE IASC FOUNDATION CONSTITUTION

The Institute of Chartered Accountants in England and Wales (the ICAEW) welcomes the opportunity to comment on EFRAG's draft comment letter on the IASCF *Review of the Constitution. Identifying Issues for Part 2 of the Review*.

We broadly agree with the key points made in the EFRAG letter, which is generally sound and balanced. We have however highlighted a number of issues below, and have also attached our own letter to the IASC Foundation Trustees, which provides further explanations of our views.

Financial stability

We support EFRAG's proposed comments regarding the new Monitoring Board. In its own submission, the ICAEW has gone on to stress that the creation of the Monitoring Board should not lead to the imposition of a financial stability objective in the standard setting process. The aim of financial reporting is to provide information to the providers of debt and equity capital: while information gathered for general purpose financial reporting provides the starting point for regulatory reporting, the two have different purposes. Financial stability should be delivered principally through regulatory regimes. In our view, any attempt to closely align the two objectives runs the risk of deep and lasting damage to the capital markets. EFRAG might like to consider making a similar point.

Agenda review

In our comments to the Trustees, we too have called for the IASB's agenda priorities to be the subject of a periodic public consultation. The first consultation should in our view take place later in 2009, given the importance of reassessing priorities in the light of the recent

financial and economic developments and their impact on the Board's work programme. However, we strongly disagree with calls for this process to be undertaken every year. This is likely to prove unnecessarily time-consuming and disruptive, especially given the length of many IASB projects. In our view a review every two or three years will suffice.

Review of the standard-setting process

EFrag argue in their covering letter that it is of 'fundamental importance' for an 'in depth' reappraisal of the standard-setting process to be undertaken 'in the coming months'. We understand the rationale for this point of view, but think that the point is made too strongly. The Financial Crisis Advisory Group is due to report shortly, and the IASB is responding to suggestions for change from a number of sources. Any further 'in depth' review at this stage may prove an unhelpful distraction and may simply encourage those who do not wish the IASB well.

Fast track procedure

In reality, given the nature of the financial reporting process, we doubt that there are many genuinely urgent issues that warrant a reduction in comment periods. We also strongly agree with EFRAG that it is unnecessary to include a 'fast track' procedure in the Constitution.

Please contact me if you would like to discuss any of the points raised in this response.

Yours sincerely

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APPENDIX



THE INSTITUTE
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IN ENGLAND AND WALES

30 March 2009

Our ref: ICAEW Rep 39/09

Your ref:

Tamara Oyre
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Dear Tamara

REVIEW OF THE CONSTITUTION

The Institute of Chartered Accountants in England and Wales (the ICAEW) is pleased to respond to the request for comments on the consultation paper *Review of the Constitution. Identifying Issues for Part 2 of the Review*.

Changes to the constitutional arrangements of the IASC Foundation must be set firmly in the context of the fundamental aims of standard setting: the development of accounting standards that are high quality and neutral, providing the foundation for transparent and comparable financial statements that clearly reflect economic reality and improve investor confidence in the reliability and transparency of published information. To that end accounting standards should only be issued by a properly constituted and independent standard setter with an appropriate mandate and level of technical expertise, following transparent due process and making decisions solely in the public interest, and more specifically to protect the interests of investors.

It is against these fundamental requirements that we have assessed the case for further change to the IASC Foundation Constitution.

Please contact me should you wish to discuss any of the points raised in the attached response.

Yours sincerely

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ICAEW Representation

ICAEW REP 39/09

REVIEW OF THE IASC FOUNDATION CONSTITUTION

Memorandum of comment submitted in March 2009 by The Institute of Chartered Accountants in England and Wales, in response to the consultation paper *Review of the Constitution. Identifying Issues for Part 2 of the Review*, published by the Trustees of the IASC Foundation in December 2008

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INTRODUCTION

1. The Institute of Chartered Accountants in England and Wales (the Institute) welcomes the opportunity to comment on the consultation paper *Review of the Constitution. Identifying Issues for Part 2 of the Review*, published by the Trustees of the IASC Foundation in December 2008.

WHO WE ARE

2. The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 132,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance, which has over 700,000 members worldwide.
3. Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. The Institute ensures these skills are constantly developed, recognised and valued.
4. Our members occupy a wide range of roles throughout the economy. This response was developed by the Financial Reporting Committee of the Institute, which includes preparers, analysts, standard-setters and academics as well as senior members of accounting firms.

MAJOR POINTS

5. Changes to the constitutional arrangements of the IASC Foundation must be set firmly in the context of the fundamental aims of standard setting: the development of accounting standards that are high quality and neutral, providing the foundation for transparent and comparable financial statements that clearly reflect economic reality and improve investor confidence in the reliability and transparency of published information. To that end accounting standards should only be issued by a properly constituted and independent standard setter with an appropriate mandate and level of technical expertise, following transparent due process and making decisions solely in the public interest, and more specifically to protect the interests of investors. It is against these fundamental requirements that we have assessed the case for further change to the IASC Foundation Constitution.
6. Our responses to the specific questions posed by the Trustees are set out below. The major points we would draw particular attention to are:
 - The importance of avoiding a situation where the creation of the Monitoring Board leads to the imposition of a financial stability objective in the standard setting process, which would run the risk of deep and lasting damage to the capital markets (paragraph 17);
 - The value of subjecting the IASB's agenda priorities, and the scope and key elements of the Board's work programme, to a periodic public consultation, perhaps every two or three years (paragraph 21);

- The pressing need to improve perceptions over the willingness of the IASB to reconsider proposals which attract significant adverse comment (paragraph 22); and
- Our doubts over the need for a 'fast track' procedure in the Constitution, and the safeguards that would be required if this proposal was implemented (paragraphs 22-27).

RESPONSES TO SPECIFIC QUESTIONS

Objectives of the organisation

Question 1

The Constitution defines the organisation's primary objective in the following manner: to develop, in the public interest, a single set of high quality, understandable and enforceable global accounting 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. In fulfilling that objective, the organisation is to take account of, as appropriate, the special needs of small and medium-sized entities and emerging economies

Does the emphasis on helping 'participants in the world's capital markets and other users make economic decisions', with consideration of 'the special needs of small and medium-sized entities and emerging economies', remain appropriate?

7. We strongly support the inclusion in the Constitution of an express reference to the challenges faced by SMEs. However, we do not think the attempt in 2005 to achieve this by adding current paragraph 2 (c), whilst leaving paragraph 2 (a) - referring to the development of a 'single set' of accounting standards and emphasising the needs of 'participants in the capital markets' - unchanged, was successful.
8. We would rather see paragraphs 2 (a) and 2 (c) modified to reflect the fact that, alongside its primary objective of producing standards for the global capital markets, the IASC Foundation has as a secondary objective the development of separate products more suitable for entities without public accountability, including SMEs.
9. We remain less convinced of the case for referring in the Constitution to the less well-defined concept of the 'emerging economies', although we recognise that listed companies and SMEs are not the only potential users of IASB products, and that the reference to the interests of 'other users' in paragraph 2 (c) is not always given sufficient emphasis.

Question 2

In the opinion of the Trustees, the commitment to drafting standards based upon clear principles remains vitally important and should be enshrined in the Constitution. Should the Constitution make specific reference to the emphasis on a principle-based approach?

10. We strongly support an approach to standard setting based primarily on principles rather than prescriptive rules, which tends to result in clearer and more understandable standards and reduces the opportunities for circumventing the intentions of standard setters. Whilst we are not convinced of the merits of including a reference to principles in the Constitution, we have no objection, providing no attempt is made to define the concept of 'principles-based' standards or standard-setting. In our view such a venture would be fruitless and unsuccessful.
11. We suggest that paragraph 2(a) of the Constitution is simply amended to refer to "high quality, *principles-based*, understandable and enforceable global accounting standards".

Question 3

The Constitution and the IASB's Framework place priority on developing financial reporting standards for listed companies. During the previous review of the Constitution some commentators recommended that the IASB should develop financial reporting standards for not-for-profit entities and the public sector. The Trustees and the IASB have limited their focus primarily to financial reporting by private sector companies, partly because of the need to set clear priorities in the early years of the organisation. The Trustees would appreciate views on this point and indeed whether the IASB should extend its remit beyond the current focus of the organisation.

12. The current regime for setting international accounting standards is in its infancy and we accept that other pressing priorities and resource constraints makes it impractical for the IASB to focus on the not-for-profit and public sectors. Moreover, we note that in any case that IPSASB has made an excellent contribution to the promotion of global public sector standards closely aligned with IFRS, and would encourage IPSASB to continue this work, informed by developments in IFRS reporting.
13. The Trustees should continue over the next few years to keep the question of public sector accounting under review. It will also be increasingly important to monitor the desirability and feasibility of the IASB addressing accounting by not-for-profit entities.

Question 4

There are other organisations that establish standards that are either based upon or have a close relationship with IFRSs. The IASC Foundation already recognises the need to have close collaboration with accounting standard-setting bodies. Should the Constitution be amended to allow for the possibility of closer collaboration with a wider range of organisations, whose objectives are compatible with the IASC Foundation's objectives? If so, should there be any defined limitations?

14. We agree that the IASC Foundation should be permitted to collaborate with a range of organisations around the world with similar objectives, providing that

there is no detrimental impact on due process or the integrity and independence of the IFRS standard setting process. Collaboration should not impair the commitment of the IASB to full consultation with its constituents or its ability to have the final say over the outcome of collaborative projects, which should be subject to clear and transparent terms of reference. Nor do we think that the Constitution should be amended to allow collaboration: the Constitution should essentially be high level, and in our view collaboration is more of an operating procedure matter.

Governance of the organisation

Question 5

The first part of the review of the Constitution proposed the establishment a formal link to a Monitoring Group. Under this arrangement, the governance of the organisation would still primarily rest with the Trustees. Although the first part of the review has not yet been completed, the Trustees would welcome views on whether the language of Section 3 should be modified to reflect more accurately the creation of the Monitoring Group and its proposed role.

15. We broadly support this development as a means of clearly demonstrating once and for all the public accountability credentials of the IASB. At the same time, we continue to hope that the appointment of the Monitoring Board will assist the Trustees and the members of the IASB, collectively and individually, to resist overt political pressure and lobbying in the standard setting process.
16. We have two concerns however. Firstly, it is imperative that the operational and technical independence of the IASB be maintained, and paragraph 19 of the new version of the Constitution (effective 1 February 2009) does not make this sufficiently clear. With this in mind we suggest that it is spelt out in paragraph 19c of the revised Constitution that it relates to aspects of governance only; and that the operation of the new arrangements be reviewed two years after they come into force.
17. Secondly, we would like in this context to be clear that the creation of the Monitoring Board should not lead to the imposition of a financial stability objective in the standard setting process. The aim of financial reporting is to provide information to the providers of debt and equity capital: while information gathered for general purpose financial reporting provides the starting point for regulatory reporting, the two have different purposes. Financial stability should be delivered principally through regulatory regimes. Any attempt to closely align the two objectives runs the risk of deep and lasting damage to the capital markets.

Trustees

Question 6

The Trustees are appointed according to a largely fixed geographical distribution. Is such a fixed distribution appropriate, or does the current distribution need review?

18. We are broadly content for the time being with the current criteria for the appointment of the Trustees, although we would emphasise - given the role now assigned to the Monitoring Board - that the priority should be the

appointment of individuals of the highest calibre with a commitment to the interests of users of general purpose financial statements.

Question 7

Sections 13 and 15 set out the responsibilities of the Trustees. The intention of these provisions is to protect the independence of the standard-setting process while ensuring sufficient due process and consultation -the fundamental operating principle of the organisation. In addition to these constitutional provisions, the Trustees have taken steps to enhance their oversight function over the IASB and other IASC Foundation activities. The Trustees would welcome comments on Sections 13 and 15, and more generally on the effectiveness of their oversight activities.

19. We are broadly content for the time being with the current responsibilities of the Trustees, as set out in sections 13 and 15.

Question 8

The Trustees are responsible for ensuring the financing of the IASC Foundation and the IASB. Since the completion of the previous review of the Constitution, the Trustees have made progress towards the establishment of a broad-based funding system that helps to ensure the independence and sustainability of the standard-setting process. However, the Trustees have no authority to impose a funding system on users of IFRSs. The Trustees would welcome comments on the progress and the future of the organisation's financing.

20. We welcome the progress made to date in establishing the broadly-based and stable funding arrangements - including the recent announcement by the European Commission - which are a prerequisite for independent and accountable standard setting.

International Accounting Standards Board

Question 9

Commentators have raised issues related to the IASB's agenda-setting process. The Constitution gives the IASB 'full discretion in developing and pursuing its technical agenda'. The Trustees have regularly reaffirmed that position as an essential element of preserving the independence of the standard-setting process. However, they would welcome views on the IASB's agenda-setting process and would appreciate it if, in setting out views, respondents would discuss any potential impact on the IASB's independence.

21. We believe that IASB agenda priorities, and the scope and key elements of the Board's work programme, should be the subject of a periodic public consultation, perhaps every two or three years. The first consultation should in our view take place later in 2009, given the importance of reassessing priorities in the light of the recent financial and economic developments and their impact on the Board's work programme.
22. An early reappraisal of the convergence agenda as part of this consultation process is also desirable, with two particular factors in mind:

- the importance of ensuring that convergence projects are only undertaken when they will lead to an improvement in IFRS reporting - or at the very least, and exceptionally, just no reduction in quality, and
- the need to avoid the cost and uncertainty associated with frequent changes to IFRS. This is a particular concern given the focus on implementing changes by 2011 related to the US GAAP/IFRS convergence programme. The IASB should adopt an approach to major change that is evolutionary, structured, well-understood and manageable for preparers and users.

Question 10

The Constitution describes the principles and elements of required due process for the IASB. The IASB's procedures are set out in more detail in the IASB Due Process Handbook. If respondents do not believe the procedures laid out in the Constitution are sufficient, what should be added? If respondents believe that the procedures require too much time, what part of the existing procedures should be shortened or eliminated? The Trustees would also welcome comments on recent enhancements in the IASB's due process (such as post-implementation reviews, feedback statements, and effect analyses) and on the IASB Due Process Handbook.

23. Regular and inclusive dialogue with constituents is a hallmark of an effective and credible standard setting process. IASB due process is generally transparent and compares favourably with the due process of major national standard setters and regulators. However, we believe that an ongoing process of review and improvement is necessary to ensure that IASB due process is seen as the embodiment of best practice in global standard setting, and accordingly we welcome the recent, significant improvements in due process arrangements and procedures. We nonetheless recognise that adding new layers of due process may have a negative impact on operational effectiveness, and would not advocate further requirements at this time, although there are areas - such as the use of advisory groups and field testing - where the effectiveness of current arrangements is variable and should be reviewed.
24. We strongly believe, moreover, that there is a pressing need to improve perceptions over the willingness of the IASB to reconsider proposals which attract significant adverse comment. The Board should always be prepared to redeliberate proposals in such circumstances, even where the staff conclude that no new substantive arguments have been raised by constituents. A widespread lack of support for proposals, whilst not a reason in itself not to proceed, should be seen to result in a process of reflection, further field testing and engagement with concerned stakeholders. This is one matter that the Trustees might consider when undertaking their annual assessment of the effectiveness of the IASB Board. The Board should also show a willingness to re-expose new requirements where significant changes are made to the original proposals.

Question 11

Should a separate ‘fast track’ procedure be created for changes in IFRSs in cases of great urgency? What elements should be part of a ‘fast track’ procedure?

25. In general, the importance of eliciting high quality and comprehensive comments on proposed changes from global constituents and testing and assessing the practical impacts of those changes far outweighs any concerns regarding the speed of the standard setting process. Rushed amendments to standards to fix perceived problems will tend to cause more problems than they solve. We were concerned, for example, that the time provided to comment on proposed amendments to IFRS 7 *Financial Instruments: Disclosures* “*Investments in Debt Instruments*” was less than four weeks.
26. In reality, given the nature of the financial reporting process, we doubt that there are many genuinely urgent issues that warrant a reduction in comment periods. If such very rare circumstances - where the issue is of grave concern and of wide application – are identified, there should still be a reasonable period for comments - say 30 days.
27. We also doubt in any case that it is necessary to include a ‘fast track’ procedure in the Constitution. If, nonetheless, such a procedure was added to the Constitution, it should involve appropriate safeguards, including prior Trustee approval and an early post-implementation review given the risk of unintended consequences, particularly in a global standard-setting environment.

Standards Advisory Council

Question 12

Are the current procedures and composition, in terms of numbers and professional backgrounds, of the Standards Advisory Council (SAC) satisfactory? Is the SAC able to accomplish its objectives as defined in Section 38?

28. We support the recent remodelling of the membership of the SAC and hope that this will lead to a higher profile for the Council and a more effective contribution to the agenda setting process.
29. The Trustees should closely monitor the performance of the SAC and its Chairman over the next few years, and ensure that the IASB is seen to listen and respond to its advice.

Question 13

Are there elements of the terms of reference that should be changed?

30. We have no suggestions at this time.

Other issues

Question 14

Should the Trustees consider any other issues as part of this stage of their review of the Constitution?

31. Paragraphs 48 and 49 of the Constitution refer briefly to senior IASB staff appointments. We believe this aspect of the IASB's operations deserves more attention from the Trustees. The role of the staff in ensuring that IASB technical work, due process and outreach is of the highest quality is crucial. Accordingly, the Constitution should, for example, refer to the attributes required of senior IASB staff, and the procedures for appointments, including the need to advertise posts externally.

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