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Sir David Tweedie
Chairman IASB
30 Cannon Street
London EC4M 6XH
United Kingdom

September 18, 2004

Re: Organismo Italiano di Contabilità (OIC): Comments on “Financial guarantee contracts and credit insurance”.

Dear Sir David,

This is our response to the draft “Financial guarantee contracts and credit insurance” containing the amendments to IAS 39 and to IFRS 4, according to which all financial guarantee contracts, regardless of their legal form, are excluded from IFRS 4 even if they are insurance contracts and are all included within IAS 39 (amendment to § 4 (d) and a B 18).

Our opinion is that the applicability of IAS 39 to financial guarantee contracts issued by insurance companies during current transactions should be rejected.

The accounting treatment disregards their legal form, as stated in IFRS 4, and it should not be based on the fact that these contracts, when they take the form of insurance, must have a different accounting treatment; in justification of the derogation is the fact that fair value does not apply to all insurance contracts in Phase I.

Otherwise, companies would have to use two opposing criteria for the same item: one for insurance contracts that fall under IFRS 4 (the majority), and one for financial guarantee contracts that should fall under IAS 39.

Furthermore, having the 1 January 2006 as an expected start date increases operational difficulties for companies that are implementing Phase I and are halfway through Phase II.

Our proposal is that fair value measurement for financial guarantee contracts issued in current transactions be suspended in Phase I.

Enclosure 1 provides our responses to the various questions.

Yours sincerely,

Prof. Angelo Provasoli
(OIC – Chairman)

cc: Kevin Stevenson

Attachments

Enclosure 1

ED of proposed amendments to IAS 39 Financial Instruments: Recognition and Measurement and IFRS 4 Insurance Contracts:

Financial Guarantee Contracts and Credit Insurance

Question 1 – Form of contract

The Exposure Draft deals with contracts that require the issuer to make specified payments to reimburse the holder for a loss it incurs if a specified debtor fails to make payment when due under the original or modified terms of a debt instrument (financial guarantee contracts). These contracts can have various legal forms, such as that of a financial guarantee, letter of credit, credit default contract or insurance contract. Under the proposals in the Exposure Draft the legal form of such contracts would not affect their accounting treatment (see paragraphs BC2 and BC3).

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

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

OIC draft response:

We agree, but it is necessary to bear in mind the following considerations. In Phase I, IFRS 4 excluded all insurance contracts from measurement at fair value. Therefore, considering that financial guarantee contracts are insurance contracts, it would be absurd to exclude a part of insurance contracts, such as credit insurance, from the application of IFRS 4 dispositions. The result would be to divide accounting in two separate parts, thereby generating confusion. It is for this reason that we ask that the application of fair value for insurance companies be suspended in Phase I.

Question 2 – Scope

The Exposure Draft proposes that all financial guarantee contracts should be within the scope of IAS 39 (see paragraph 2 of IAS 39 and paragraph 4 of IFRS 4), and defines a financial guarantee contract as “a contract that requires the issuer to make specified payments to reimburse the holder for a loss it incurs because a specified debtor fails to make payment when due in accordance with the original or modified terms of a debt instrument” (see paragraph 9 of IAS 39).

Is the proposed scope appropriate?

If not, what changes do you propose, and why?

OIC draft response:

The proposal to bring all financial guarantee contracts within the scope of IAS 39 should be amended to exclude insurance contracts in Phase I, for the reasons already stated in the answer to Question 1.

Question 3 – Subsequent measurement

The Exposure Draft proposes that financial guarantee contracts, other than those that were entered into or retained on transferring financial assets or financial liabilities within the scope of IAS 39 to another party, should be measured subsequently at the higher of:

(a) the amount recognised in accordance with IAS 37 Provisions, Contingent Liabilities and Contingent Assets; and

(b) the amount initially recognised (ie fair value) less, when appropriate, cumulative amortisation recognised in accordance with IAS 18 Revenue (see paragraph 47 (c) of IAS 39).

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

OIC draft response:

We agree with the proposed evaluation for all contracts except insurance contracts issued by companies during Phase I.

Question 4 – Effective date and transition

The proposals would apply to periods beginning on or after 1 January 2006, with earlier application encouraged (see paragraph BC 27). The proposals would be applied retrospectively.

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

OIC draft response:

We agree. For insurance contracts, the transition period will coincide with Phase I.