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30 Cannon Street
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Dear Mr Teixeira

Exposure Draft
Proposed Amendments to IFRS 3 *Business Combinations* and *IAS 27 Consolidated and Separate Financial Statements*

I am pleased to submit my comments on the Board's proposed amendments to IFRS 3 "Business Combinations" and IAS 27 "Consolidated and Separate Financial Statements". However, I regret to say that I am unable to support the proposals.

I do not agree with the economic entity approach and fail to see any weakness in the current financial model that these proposals address. The consequential recognition of full goodwill relies on the assumption that the fair value of an acquiree is the same for every acquirer and that the benefits embodied in goodwill are shared proportionately between controlling an non-controlling interests. Perhaps unsurprisingly, the Board has produced no evidence to support these assumptions, which I believe to be flawed. Full goodwill recognition also leads to accounting for increases and decreases in holdings in subsidiaries which do not reflect business circumstances correctly and would not be recognised as fair accounting of the transactions by the primary users of the financial statements, the shareholders of the parent company.

Responses to specific questions are set out in the attached appendix. I would be happy to discuss these further should you wish and can be contacted on 01625 517294.

Yours sincerely,

Bill Hicks

PROPOSED AMENDMENTS TO IFRS 3 BUSINESS COMBINATIONS

Objective, definition and scope

Question 1—Are the objective and the definition of a business combination appropriate for accounting for all business combinations? If not, for which business combinations are they not appropriate, why would you make an exception, and what alternative do you suggest?

Notwithstanding the current approach dictated by IFRS 3, I continue to believe that in practice there are true mergers. It is important that the IASB consider alternative accounting methods for combinations, such as fresh start accounting, as soon as possible.

The proposed definition of "business combination" appears to, inadvertently, relax the stipulation that all business combinations should be accounted for using purchase accounting by focussing on the existence of an acquirer. In the case of a true merger, there is no such thing. I do not believe this is the intention of the Board.

Definition of a business

Question 2—Are the definition of a business and the additional guidance appropriate and sufficient for determining whether the assets acquired and the liabilities assumed constitute a business? If not, how would you propose to modify or clarify the definition or additional guidance?

The proposed definition of a business is broader than the current definition and I welcome this change. However, I am conscious that, as recognised by the Board in BC41 that there may be opportunities for abuse.

Measuring the fair value of the acquiree

Question 3—In a business combination in which the acquirer holds less than 100 per cent of the equity interests of the acquiree at the acquisition date, is it appropriate to recognise 100 per cent of the acquisition-date fair value of the acquiree, including 100 per cent of the values of identifiable assets acquired, liabilities assumed and goodwill, which would include the goodwill attributable to the non-controlling interest? If not, what alternative do you propose and why?

I do not agree with the proposed approach and agree with the views of the dissenting Board members set out in Proposed Amendments to IFRS 3 AV2 – AV7. In my view, the revised standard should continue to be based on the parent-only, cost-based approach of the current IFRS 3. There are a number of reasons for this:

- Consolidated financial statements are prepared primarily for the shareholders of the parent company. Non-controlling interests are unlikely to have automatic access to the consolidated accounts (and, in some cases, no right) and would not obtain useful information from them.
- Benefits embodied in goodwill may not be shared proportionately between controlling and non-controlling interests (for example, synergies enjoyed in the parent entity only)
- There are likely to be considerable impracticalities in applying the fair valuing principles to a non-listed acquiree

Overall, I do not agree with the implicit presumption that the fair value of an acquiree is the same for different acquirers nor that the fair value to the seller must the same as to the buyer.

Question 4—Do paragraphs A8-A26 in conjunction with Appendix E provide sufficient guidance for measuring the fair value of an acquiree? If not, what additional guidance is needed?

I do not believe that the paragraphs do not provide sufficient guidance on how to gross up fair value of the interest acquired to the fair value of the acquiree. The approach does not recognise, in example 15, that there may be valid reasons for AC being willing to pay a premium for TC. Once again, my point in question 3 about the fair value of an acquiree not being the same for different acquirers is relevant here.

Question 5—Is the acquisition-date fair value of the consideration transferred in exchange for the acquirer's interest in the acquiree the best evidence of the fair value of that interest? If not, which forms of consideration should be measured on a date other than the acquisition date, when should they be measured, and why?

In general I agree that the acquisition date fair value of the consideration (as opposed to the acquiree) transferred in exchange for the acquirer's interest in the acquiree is the best evidence of the fair value of that interest.

Question 6—Is the accounting for contingent consideration after the acquisition date appropriate? If not, what alternative do you propose and why?

I do not agree with the proposed approach. Contingent consideration often reflects situations where the buyer and seller are unable to agree a price and, as such, subsequent changes should be adjustments to goodwill. In addition, I am concerned about the opportunities for abuse that the proposed guidance would present. For example, there is also a problem which arises from the inconsistency of treatments between equity and liability contingent consideration. In addition, the liability approach itself is open to abuse from entities overstating the liability and then recognising one or more gains in income.

Question 7—Do you agree that the costs that the acquirer incurs in connection with a business combination are not assets and should be excluded from the measurement of the consideration transferred for the acquiree? If not, why?

I do not agree with this proposal because it is inconsistent with the treatment of direct acquisition related costs in other existing standards as set out in the dissenting views. Although costs are not assets, they are representative of the fair value of the acquiree to the acquirer. Although other standards take the view that, on exchange of assets, fair value to the seller and the buyer is the same, this cannot be extended to business combinations.

Measuring and recognising the assets acquired and the liabilities assumed

Question 8—Do you believe that these proposed changes to the accounting for business combinations are appropriate? If not, which changes do you believe are inappropriate, why, and what alternatives do you propose?

Generally I agree with the initial recognition and measurement changes but believe that further explanations on subsequent measurement of (contingent) assets to the extent or otherwise that they may be recognised under IAS 38, would be necessary.

Question 9—Do you believe that these exceptions to the fair value measurement principle are appropriate? Are there any exceptions you would eliminate or add? If so, which ones and why?

Generally, I agree that the exceptions are appropriate. However, there is an anomaly here with deferred tax assets and liabilities, which will continue to be measured at book value, despite the fact that the purchase price may be established based, in part, on the underlying fair values. This is not an issue with the other examples of pensions and assets held for sale where the provisions of their standards will result in fair value.

Additional guidance for applying the acquisition method to particular types of business combinations

Question 10—Is it appropriate for the acquirer to recognise in profit or loss any gain or loss on previously acquired non-controlling equity investments on the date it obtains control of the acquiree? If not, what alternative do you propose and why?

I do not believe that the proposed accounting is correct. In the case of a non-controlling interest that is an available for sale security, the holding would be based on fair value. However, this should not be the case with holdings in, say, associates. Taking the interest in an associate up to fair value can be, in substance, a recognition of internally generated goodwill. I believe a model based on the carrying values of the existing non-controlling elements (which is a mixed model) plus the fair value of the consideration is more appropriate.

Should the fair value proposals be adopted, the gain or losses (to the extent that they do not represent impairments) should not be taken to income but should be reflected in equity.

Question 11—Do you agree with the proposed accounting for business combinations in which the consideration transferred for the acquirer's interest in the acquiree is less than the fair value of that interest? If not, what alternative do you propose and why?

These proposals are effectively embodied in the current IFRS 3. Whilst the recognition of a gain immediately has the benefit of simplicity, I do not believe that it always reflects the commercial realities of the business combination. However, on the basis that the guidance is now part of established GAAP, I would not propose changing the approach.

Question 12—Do you believe that there are circumstances in which the amount of an overpayment could be measured reliably at the acquisition date? If so, in what circumstances?

Although there may be cases where an overpayment is made, I do not believe it is possible to measure that overpayment reliably, in part because it is often difficult to measure the fair value of the acquiree reliably. However, some of the application guidance represents, in effect, the calculation of an overpayment so the material is inconsistent with the stated approach to overpayments.

Measurement period

Question 13—Do you agree that comparative information for prior periods presented in financial statements should be adjusted for the effects of measurement period adjustments? If not, what alternative do you propose and why?

I do not agree with the proposals. I believe such measurement period adjustments are changes in accounting estimates and should be dealt with prospectively in accordance with IAS 8, with no changes to comparative (previously disclosed) information. I recognise that the current version of IFRS 3 requires the approach set out in the exposure draft but believe this should be changed.

Assessing what is part of the exchange for the acquiree

Question 14—Do you believe that the guidance provided is sufficient for making the assessment of whether any portion of the transaction price or any assets acquired and liabilities assumed or incurred are not part of the exchange for the acquiree? If not, what other guidance is needed?

The guidance deals with complex situations but could itself be simplified to require the recognition of a charge only when the contract has a settlement provision. Otherwise, the guidance is impractical. Guidance on how to account for the situation where the acquiree has an asset which is the grant of right (for example, distribution rights) would be helpful.

Disclosures

Question 15—Do you agree with the disclosure objectives and the minimum disclosure requirements? If not, how would you propose amending the objectives or what disclosure requirements would you propose adding or deleting, and why?

The disclosure objectives and minimum disclosure requirements are acceptable.

The IASB's and the FASB's convergence decisions

Question 16—Do you believe that an intangible asset that is identifiable can always be measured with sufficient reliability to be recognised separately from goodwill? If not, why? Do you have any examples of an intangible asset that arises from legal or contractual rights and has both of the following characteristics:
(a) the intangible asset cannot be sold, transferred, licensed, rented, or exchanged individually or in combination with a related contract, asset, or liability; and
(b) cash flows that the intangible asset generates are inextricably linked with the cash flows that the business generates as a whole?

I continue to believe that an intangible asset may not be capable of sufficiently reliable measurement to allow it to be recognised separately from goodwill. In formulating the current IFRS 3 the Board considered this area and its conclusions set out in detail in the Basis of Conclusions. I am not aware of any compelling arguments to change the current approach.

Question 17—Do you agree that any changes in an acquirer's deferred tax benefits that become recognisable because of the business combination are not part of the fair value of the acquiree and should be accounted for separately from the business combination? If not, why?

I agree that any changes in an acquirer's deferred tax benefits that become recognisable because of the business combination should be accounted for separately from the business combination.

Question 18—Do you believe it is appropriate for the IASB and the FASB to retain those disclosure differences? If not, which of the differences should be eliminated, if any, and how should this be achieved?

It is regrettable that some divergence remains, but I understand the reasons for this and, provided this is not seen as a precedent to argue against further convergence, view it as acceptable.

Style of the Exposure Draft

Question 19—Do you find the bold type-plain type style of the Exposure Draft helpful? If not, why? Are there any paragraphs you believe should be in bold type, but are in plain type, or vice versa?

The bold type approach is satisfactory. However, there are fewer paragraphs in bold type than I would expect for this guidance and it may be worth the Board considering whether certain paragraphs (such as paragraph 49) should be split into separate bold and plain type paragraphs.