



RK/MT
EBF ref. N° 0025

Email

Mr Russell G. Golden
Technical Director
FASB (Financial Accounting Standards Board)
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

director@fasb.org

Brussels, 26 January 2009

Subject: *Exposure Draft of Proposed Amendments to IAS 39 and IFRIC 9*

Dear Mr Golden,

I am writing to you on behalf of the European Banking Federation¹ to inform you of the comment letter we have sent to Sir David on the IASB Exposure Draft Embedded Derivatives (see enclosed letter N° 0023-2009).

In particular, we would like to bring to your attention our response to Question 1 which relates to the FASB FAS 133 Implementation statements n. C22.

Yours sincerely,

Guido Ravoet

Enclosure: 1

¹ Set up in 1960, the European Banking Federation is the voice of the European banking sector, with over 30 000 billion EUR assets and 2.4 million employees in 31 EU & EFTA countries. The EBF represents the interests of some 5000 European banks: large and small, wholesale and retail, local and cross-border financial institutions.

a.i.s.b.l.

Email

Sir David Tweedie
Chair
International Accounting Standards Board
30 Canon Street
UK – London, EC4M 6XH

Brussels, 22 January 2009

Subject: *Exposure Draft of Proposed Amendments to IAS 39 and IFRIC 9*

Dear Sir David,

Thank you for the possibility to comment on the Exposure Draft of amendments to IAS 39 and IFRIC 9. The European Banking Federation is pleased to provide you with answers to the specific questions raised in the document.

Question 1 and Question 2

The exposure draft clarifies that an entity must assess whether an embedded derivative is required to be separated from a host contract when the entity reclassifies a hybrid (combined) financial asset out of the fair value through profit or loss category. Do you agree with that clarification? If not, why? What would you propose instead, and why?

The EBF appreciates the clarification that has been given about the separation of embedded derivatives relating to the reclassification of assets from fair value through profit or loss (held for trading) to amortized cost.

Our members agree with the clarification provided in the Exposure Draft with a minor modification on paragraph 12 "..... Similarly, if an entity is unable to measure separately the embedded derivative that would have to be separated on reclassification of a hybrid (combined) contract out of the fair value through profit and loss category (**when permitted under paragraph 50(c) of IAS 39**), that reclassification is prohibited."

However in this regard, we note that the clarification that has been recently issued for comments by the FASB (FAS 133 Implementation statements n. C22 from 14 January 2009) with the aim to align US GAAPs with the IFRS to reach a level playing field does not seem to be fully aligned with the general IFRS **interpretation** on the matter of derivatives embedded in synthetic CDO like structures.

a.i.s.b.l.

According to the IFRS, synthetic CDO instruments may not be accounted for at amortized cost in their entirety because of the widespread “interpretation” that they include a separable embedded derivative, thus, they must either be split (with the bifurcated derivative at fair value and the host contract at amortized cost) or be accounted for at fair value through profit and loss using the fair value option.

The FASB clarification clearly states that fully funded CDOs do not contain any embedded derivatives. The EBF agrees with the FASB clarification and would therefore like to ask the IASB to urgently issue a statement clarifying that the FASB implementation statement is consistent with and equally valid for IFRS, meaning that IAS 39 AG30h can be interpreted as requiring bifurcation only for partially funded synthetic CDOs.

Question 2

The exposure draft requires the assessment to be made on the basis of the circumstances that existed when the entity first became a party to the contract.

Do you agree with that proposal? If not, why? What would you propose instead, and why?

We support the comments made by EFRAG and the wording which takes into account the possibility that at some point in time after initial recognition and before reclassification out of fair value through profit or loss there has been a significant change in the terms of the instrument that affect its cash flows.

The newly inserted paragraph 7A should read as follows:

“The assessment whether an embedded derivative is required to be separated from the host contract and accounted for as a derivative on reclassification of a financial asset out of the fair value through profit or loss category shall be made on the basis of the circumstances that existed at the later of the date when the entity first became a party to the contract and the date a reassessment is required by paragraph 7.”

Question 3

The exposure draft proposes that if the fair value of an embedded derivative that would have to be separated cannot be reliably measured, the entire hybrid (combined) financial instrument must remain in the fair value through profit or loss category. Do you agree with that proposal? If not, why? What would you propose instead, and why?

We agree as such a rule is already in place for the assessment of embedded derivatives.

Question 4 and Question 5

Do you agree with the proposed effective date? If not, why? What would you propose instead, and why?

Are the transition requirements appropriate? If not, why? What would you propose instead, and why?

In our view any changes in reporting practices must be properly consulted and institutions should be given time to prepare for a change-over. Entities will need to restate prior periods, including interim reports, which mean that entities will have to reassess all the existing contracts. This may lead to implementation difficulties if this has to be done in few weeks. The proposed effective date would be very demanding for entities applying a fast close process to their financial statements closure especially in the case such clarification need to change decision on reclassification that have already been taken.

Should you have any questions, please do not hesitate to contact us.

Yours sincerely,



Guido Ravoet
Secretary General

Cc: Mr Russell G. Golden, Technical Director, FASB
director@fasb.org