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Adam Van Eperen Financial Crisis Advisory Group c/o International Accounting Standards Board 30 Cannon Street

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Dear Sir.

LETTER OF COMMENT NO. 5^{L}

Financial Crisis Advisory Group's request for input

On behalf of the German Accounting Standards Board (GASB) I am writing in response to the Financial Crisis Advisory Group's (FCAG's) request for input that was published on 10 March 2009. We appreciate the opportunity to submit our input.

While we do not believe that financial reporting has caused the financial crisis, we do believe that it is essential that as a consequence a comprehensive review has to be carried out of existing financial reporting requirements. Any weaknesses identified have to be addressed and improvements have to be made as a matter of priority.

Please find our detailed comments on the questions raised in the FCAG's request for input in the appendix to this letter. We are aware that the FCAG is a joint working group of the IASB and the FASB and is therefore seeking input to help it making recommendations to both Boards. As listed companies in Germany are required to prepare consolidated financial statements in accordance with IFRS, our comments will refer mainly to IFRS and the IASB. If you would like to discuss our comments further, please do not hesitate to contact me.

Yours sincerely, Liesel Knorr President

Appendix

Question 1

From your perspective, where has general purpose financial reporting helped identify issues of concern during the financial crisis? Where has it not helped, or even possibly created unnecessary concerns? Please be as specific as possible in your answers.

We do not believe that financial reporting has caused the financial crisis as some have claimed. However, we do believe that it is essential that a comprehensive review is carried out of existing external financial reporting requirements to determine whether any of those requirements intensified some or all of the problems that have arisen. It is also essential that any weaknesses identified in the financial reporting requirements are addressed and improvements made as a matter of priority.

In our opinion the financial crisis has highlighted difficulties in applying IFRSs, mainly in the following areas:

- Measuring financial instruments at fair value when markets become illiquid or inactive;
- Disclosures that should be provided to support the measures used;
- Different approaches to determine the impairment of financial assets and for reversal of such impairments;
- Derecognition and disclosures provided for off-balance sheet items, particularly those that just met the criteria for being derecognised.

Additionally the crisis highlighted differences in the requirements under IFRS and U.S. GAAP, e.g. impairment rules for financial assets, treatment of embedded derivatives in synthetic CDOs, netting rules for derivatives etc. The crisis highlighted the need for one single set of high quality global accounting standards. With regard to achieving a level playing field between IFRS and U.S. GAAP, convergence remains an important goal.



Question 2

If prudential regulators were to require 'through-the-cycle' or 'dynamic' loan provisions that differ from the current IFRS or US GAAP requirements, how should general purpose financial statements best reflect the difference: (1) recognition in profit or loss (earnings); (2) recognition in other comprehensive income; (3) appropriation of equity outside of comprehensive income; (4) footnote disclosure only; (5) some other means; or (6) not at all? Please explain how your answer would promote transparency for investors and other resource providers.

The objective of financial statements is to provide information about the financial position, performance and changes in financial position of an entity that is useful to a wide range of users in making economic decisions (Framework para. 12). This will possibly differ from the objectives the prudential regulators try to achieve, mainly financial stability. The GASB, therefore, does not support approaches (1) or (2) as they will lead to a mingling of the two objectives. The decisions reached by the G20 call for a joint effort of standardsetters and regulators to work jointly on finding a solution on reporting impairments. While this may result in intensified discussions on dynamic provisioning, it may, nevertheless, result in a decision not to reflect this type of loan loss provision in financial reporting (approach (6)). Given that we could not envisage what approach (5) might comprise, we believe that for the time being approaches (3) and (4) seem to be solutions that should be explored further.

Question 3

Some FCAG members have indicated that they believe issues surrounding accounting for off-balance items such as securitisations and other structured entities have been far more contributory to the financial crisis than issues surrounding fair value (including mark-to-market) accounting. Do you agree, and how can we best improve IFRS and US GAAP in that area?

At this stage, we are not in a position to make a final judgment as to the factors that caused or contributed to the financial crisis. With regard to the indication mentioned, we are also unable to decide whether accounting for off-balance sheet items have

been more contributory to the crisis than issues surrounding fair value. This being said, the GASB believes that IAS 27 and SIC-12, if appropriately applied, have generally worked quite well with regard to off-balance sheet items, especially if compared to the requirements set out under U.S. GAAP. In our comment letter on Exposure Draft ED 10 Consolidated financial Statements we have stated that, in our view, the proposed changes on the assessment of control with regard to structured entities do not form an improvement to existing requirements. However, the GASB generally appreciates the IASB's objective to improve the disclosure requirements about consolidated and unconsolidated entities, in particular to better inform (potential) capital providers about the nature of, and risks associated with, a reporting entity's involvement with 'off-balance sheet' activities.

Question 4

Most constituents agree that the current mixed attributes model for accounting and reporting of financial instruments under IFRS and US GAAP is overly complex and otherwise suboptimal. Some constituents (mainly investors) support reporting all financial instruments at fair value. Others support a refined mixed attributes model. Which approach do you support and why? If you support a refined mixed attributes model, what should that look like, and why, and do you view that as an interim step toward full fair value or as an end goal? Whichever approach you support, what improvements, if any, to fair value accounting do you believe are essential prerequisites to your end goal?

This issue was in the focus of the Discussion Paper (DP) Reducing Complexity in Reporting Financial Instruments issued by the IASB in March 2008. In its comment letter the GASB stated that pursuing a full fair value measurement of financial instruments as the long-term objective as proposed by the DP is clearly premature at this point in time. Accordingly, it is not appropriate to include this long-term objective as a criterion for assessing any ways in which existing measurement requirements for financial instruments might be improved and simplified.

The GASB takes the view that, in order to faithfully present the reporting entity and its underlying business, the measurement attribute needs to reflect the intended use of the financial instrument. While holding the view that fair value is the appropriate

measurement attribute for financial instruments held for trading and derivatives and have significantly contributed to transparency in the current crisis, the GASB contends that fair value is not relevant for measurement of financial instruments held for longer-term investment purposes and is, therefore, inappropriate for that purpose. The GASB supports a mixed attribute model with a reduced number of financial instruments categories. GASB holds the opinion that the classification of financial instruments in such categories should best be based on management's intended use. If the classification was done in such way, a model with only two financial instruments categories would be sufficient – fair value through profit or loss and an amortised cost approach with an impairment test. If the classification was based on economic characteristics of the instruments (as set out in AP6 of the March 2009 Joint Board Meeting), the necessary number of financial instruments categories would be dependant on the characteristics chosen.

Question 5

What criteria should accounting standard-setters consider in balancing the need for resolving an 'emergency issue' on a timely basis and the need for active engagement from constituents through due process to help ensure high quality standards that are broadly accepted?

The GASB discussed this issue in connection with the IASC Foundation's Discussion Document – Review of the Constitution: Identifying Issues for Part 2 of the Review. The GASB agrees, that the IASCF constitution should allow for fast-track and emergency procedures. The details should then be described in the IASB's Due Process Handbook.

The "ordinary" due process should include all the procedures to be taken by the IASB when developing, revising or amending a standard. As further steps to accelerate the process, if needed, the Due Process Handbook should clearly define under which circumstances which procedures may be shortened (e.g. decrease of comment period from 120 to 90 or 60 days) or omitted (e.g. omittance to issue a discussion paper, to hold public discussions, etc.).

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A specific process should be established for cases of emergency to be applied only in rare circumstances. However, to avoid that an emergency process is applied in undue circumstances, the IASCF constitution should set out which circumstances qualify as "emergency". Additionally, we propose that the IASB is required to obtain approval from the Trustees before it may apply the emergency process and that the Trustees consult with the SAC before they approve the emergency process. The general principle should be that the more accelerated the process, the higher the hurdle the IASB must take to be allowed to apply the process.

Overall, we like to point out that the IASB should under no circumstances (neither fast-track process nor emergency process) be allowed to completely omit public consultation. However, we agree that at least for the emergency process consultation with the public could, for example, be substituted by consultation with the SAC.

Question 6

Are there financial crisis-related issues that the IASB or the FASB have indicated they will be addressing that you believe are better addressed in combination with, or alternatively by, other organisations? If so, which issues and why, and which organisations?

We have repeatedly expressed our opinion that all unresolved financial reporting issues resulting from the financial crisis should solely be addressed by either the IASB or the IFRIC rather than other organisations, and that their due processes should be followed with no exceptions. However, that should not prevent the IASB from drawing on the expertise of others and working in close cooperation with relevant other organisations, as the financial crisis does not only affect financial reporting. But in the end, all decisions with impact on IFRSs should be made by the IASB or the IFRIC with a clear focus on decision-useful financial reporting.

Question 7

Is there any other input that you'd like to convey to the FCAG?

There are no other issues we would like to raise.