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International Accounting Standards Board 30 Cannon Street London EC4M 6XH United Kingdom Email: commentletters@iasb.org

25 April 2011, Madrid

Exposure Draft ED/2011/1 Offsetting Financial Assets and Financial Liabilities

Dear Sirs.

Instituto Iberoamericano de Mercados de Valores (IIMV) is pleased to respond to the International Accounting Standards Board's (the IASB's) Exposure Draft ED/2011/1 Offsetting Financial Assets and Financial Liabilities (referred to as the 'exposure draft' or 'ED').

IIMV is an organization formed by securities regulators from the Iberoamerican area that is committed to the development of the transparency and integrity of the securities markets, improve the knowledge of their structure and regulation, enhance the harmonization and encourage the cooperation between supervisors and regulators. Attached we present a list of members of IIMV.

We support the IASB and the FASB efforts to develop joint proposals for converged requirements for offsetting financial assets and liabilities. We particularly agree the Boards' decision to work, as a basis for the converged requirements, with the existing guidance for offsetting financial assets and financial liabilities in IAS 32 *Financial instruments: Presentation*.

As noted in the introduction in the ED, the differences in the offsetting requirements in IFRS and US GAAP account for the single largest quantitative difference in amounts presented in the statement of financial position. So, it is necessary to address this issue in order to increase comparability in financial reporting for users.



We agree with the IASB's main proposal that a legally enforceable right and the intention to settle the financial asset and the financial liability on a net basis or simultaneously is required to offset financial assets and liabilities.

Our detailed comments and answers to your questions on the exposure draft along with other comments are included in the Appendix to this letter.

We are pleased of your consideration on the comments included in this letter. If you have any questions concerning them, please contact the General Secretary in Madrid, by email acf@iimv.org or at phone + (34) 91 585 09 01.

Yours sincerely,

Santiago Cuadra General Secretary

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INSTITUTO IBEROAMERICANO DE MERCADOS DE VALORES (IIMV)

The Council of IIMV is comprised of the maximum authorities of the securities market supervisory bodies in Ibero-american countries and a senior representative of the public administration with regulatory responsibilities for capital market affairs. The Council is chaired by the Chairman of the Comisión Nacional Supervisora de Empresas y Valores (CONASEV) de Perú.

The current memberships are:

- Comisión Nacional de Valores de Argentina
- Commissao de Valores Mobiliários de Brasil
- Autoridad de Supervisión del Sistema Financiero (ASFI) de Bolivia
- Superintendencia de Valores y Seguros de Chile
- Superintendencia Financiera de Colombia
- Superintendencia General de Valores de Costa Rica
- Superintendencia de Compañías de Ecuador
- Comisión Nacional de Valores de España
- Secretaria de Estado de Economía de España
- Superintendencia de Valores de El Salvador
- Ministerio de Economía de Guatemala
- Comisión Nacional Bancaria y de Valores de México
- Secretaria de Hacienda y Crédito Público de México
- Superintendencia de Bancos y Otras Instituciones Financieras de Nicaragua
- Comisión Nacional de Valores de Panamá
- Comisión Nacional de Paraguay
- Comisión Nacional Supervisora de Empresas y Valores de Perú
- Comissao do Mercado de Valores Mobiliarios de Portugal
- Secretaria de Estado do Tesouro e das Finanças de Portugal
- Superintendencia de Valores de República Dominicana
- Banco Central de Uruguay
- Superintendencia de Valores de Venezuela

Appendix

Our responses to questions in the Exposure Draft

Question 1—Offsetting criteria: unconditional right and intention to settle net or simultaneously

The proposals would require an entity to offset a recognised financial asset and a recognised financial liability when the entity has an unconditional and legally enforceable right to set off the financial asset and financial liability and intends either:

- (a) to settle the financial asset and financial liability on a net basis; or
- (b) to realise the financial asset and settle the financial liability simultaneously.

Do you agree with this proposed requirement? If not, why? What criteria would you propose instead, and why?

Response:

IIMV agree with the IASB's proposal to establish a principle for offsetting financial assets and financial liabilities. Furthermore, we agree with the proposal to clarify that the right to set off the financial asset and the financial liability must be unconditional and legally enforceable in all circumstances. These criteria are currently applied under the existing IAS 32.

We note that there is some application guidance included in the ED which nature is more of a requirement, so we believe that it should be more appropriate to move it to the main text. This is the case of the guidance included in C15 that clarifies the reassessment of right of set-off and establishes that a right to set off that is exercisable only before a specific date or that may be removed by a future event, does not meet the offsetting criteria. This would be a requirement more than a clarification.

Finally, we suggest that the Board may consider if any consequential amendments are needed to IAS 12 *Income Taxes* and IAS 19 *Employee Benefits*, two standards that both explicitly refer to an offsetting criteria quite similar to that in IAS 32.

Question 2—Unconditional right of set-off must be enforceable in all circumstances

It is proposed that financial assets and financial liabilities must be offset if, and only if, they are subject to an unconditional and legally enforceable right of set-off. The proposals specify that an unconditional and legally enforceable right of set-off is enforceable in all circumstances (i.e., it is enforceable in the normal course of business and on the default, insolvency or bankruptcy of a counterparty) and its exercisability is not contingent on a future event. Do you agree with this proposed requirement? If not, why? What would you propose instead, and why?

Response:

IIMV agrees with the proposal to clarify that the right to set off the financial asset and the financial liability must be unconditional and legally enforceable in all circumstances.

We agree that only if the right has these two characteristics, the entity has the ability to settle net or simultaneously and this ability is ensured.

The Boards should however clarify through additional application guidance some details. For example, paragraph 6 of the ED refers only to "offset a recognised financial asset and a recognised financial liability". It does not refer to offsetting portions of these financial instruments, implying that the unit of account for offsetting is the entire financial asset or financial liability. Paragraph 10(b), however, indicates that the right of set-off may apply to "all or a portion of an amount …". The Board should reconcile these statements in the final standard and provide additional clarification.

We find that it would be also very useful for preparers and users to provide examples illustrating how the proposed criterion would apply to financial assets and financial liabilities with different characteristics that may be commonly encountered in practice. For example, instruments that are subject to periodic settlements, as certain types of commodity derivative instruments that require settlement on a monthly basis on the basis of an observable index, instruments that may fulfil the required criteria but terms are not equal, etc.

Question 3—Multilateral set-off arrangements

The proposals would require offsetting for both bilateral and multilateral set-off arrangements that meet the offsetting criteria. Do you agree that the offsetting criteria should be applied to both bilateral and multilateral set-off arrangements? If not, why? What would you propose instead, and why? What are some of the common situations in which a multilateral right of set-off may be present?

Response:

Yes, we agree with the proposal to keep the scope of the offsetting guidance unchanged and require offsetting for both bilateral and multilateral arrangements that meet the offsetting criteria.

We share the IASB's conclusion that although multilateral offsetting is likely to be unusual, there is no basis for explicitly excluding multilateral netting arrangements from the scope of offsetting if all the other criteria, including legal enforceability, are satisfied for the transaction.

Question 4—Disclosures

Do you agree with the proposed disclosure requirements in paragraphs 11–15? If not, why? How would you propose to amend those requirements, and why?

Response

Yes, we generally agree that the proposed disclosure requirements will provide useful information to the users of the financial statements and address the information that it's needed about an entity's net credit exposures. We also agree that this information should be sufficiently disaggregated that it does not obscure important differences between the different types of rights of set-off or related arrangements.

However, the Board should determine how the proposed disclosure requirements will interact with existing disclosure requirements in IFRSs on credit risk, collateral and derecognition in order to avoid inconsistencies or overlapping. IFRS 7 already requires certain quantitative disclosures of the amount of credit risk at the end of the reporting period (paragraphs 36-38), as well as disclosures about collateral and derecognition (paragraphs 13-15) of financial assets.

Question 5—Effective date and transition

- (a) Do you agree with the proposed transition requirements in Appendix A? If not, why? How would you propose to amend those requirements, and why?
- (b) Please provide an estimate of how long an entity would reasonably require to implement the proposed requirements.

Response

We agree that the final standard should require retrospective application for all comparative periods.

But we understand that this is a question that should be answered by prepares and we encourage the Boards to perform outreach activities (in particular U.S. GAAP preparers, who will be affected more than IFRS preparers) to determine what system and operational changes might be required to comply with the standard.

Moreover, we believe that in some jurisdictions the proposed requirements could have an impact on entities' capital ratios as computed under existing regulatory requirements. So, we suggest that the Boards should provide an adequate transition period that will enable regulators in those jurisdictions to modify their rules in response to the new accounting standard prior to entities' required adoption of the standard.