



FEDERATION  
BANCAIRE  
FRANCAISE

*Banking supervision  
And Accounting issues Unit*

*The Director*

Paris, April 2<sup>nd</sup> 2013

**Exposure Draft ED/2012/4 Classification and measurement: limited amendments to IASB ED 2013/2 Novation of derivatives and continuation of hedge accounting: proposed amendments to IAS 39 and IFRS 9**

Dear Sir,

The French Banking Federation appreciates the opportunity to comment on the Exposure Draft "Novation of Derivatives and Continuation of Hedge Accounting – Proposed amendments to IAS 39 and IFRS 9".

We welcome the proposed amendment that clarifies that hedge accounting can be continued upon novation in specific circumstances.

However, we believe that the scope of the amendment is drafted too narrowly. It should be broadened to derivatives novated prior to the mandatory application of the laws regulations as many banks may anticipate the consequences of these future regulations to avoid the resulting capital charges. More generally, we consider that voluntary novations whereby the counterparty is changed (might it be to a central counterparty or not) but for which the substantial terms of the contract are not modified should also be covered by the amendments. Such novations are important factors contributing to the flexibility and liquidity of the market of OTC derivatives.

We hope you find these comments useful and would be pleased to provide any further information you might require.

Yours sincerely,

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## **Appendix**

### **Question 1**

*The IASB proposes to amend IAS 39 so that the novation of a hedging instrument does not cause an entity to discontinue hedge accounting if, and only if, the following conditions are met:*

*(i) the novation is required by laws or regulations;*

*(ii) the novation results in a central counterparty (sometimes called 'clearing organisation' or 'clearing agency') becoming the new counterparty to each of the parties to the novated derivative; and*

*(iii) the changes to the terms of the novated derivative arising from the novation of the contract to a central counterparty are limited to those that are necessary to effect the terms of the novated derivative. Such changes would be limited to those that are consistent with the terms that would have been expected if the contract had originally been entered into with the central counterparty. These changes include changes in the collateral requirements of the novated derivative as a result of the novation; rights to offset receivables and payables balances with the central counterparty; and charges levied by the central counterparty.*

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

We believe that the proposed scope of the amendment which is limited to requirements set by laws or regulations is too restrictive. It should encompass other circumstances upon which an entity chooses to novate derivative contracts.

Indeed, an entity may choose to novate derivative contracts to a central counterparty prior to the mandatory application of the clearing regulations. An entity may also choose to novate derivative contracts to any other counterparty, even if not required to be novated, notably in the framework of its risk management or in order to mitigate regulatory capital requirements. Therefore voluntary novation should also be permitted.

Novation may also result in a new counterparty other than central counterparty without other substantial changes of the underlying contract.

Therefore, we suggest that the proposed amendment permits that novation may result in parties other than central counterparties provided that the substantial terms of the novated contract other than those of changes of the counterparty or those of changes directly linked to the novation are not modified.

We agree that changes to the novated contract should be limited to "those that are necessary to effect the terms of the novated derivative" and to those that are "consistent with the terms that would have been expected" if the contract had originally been entered into with the new counterparty.

**Question 2**

*The IASB proposes to address those novations arising from current changes in legislation or regulation requiring the greater use of central counterparties. To do this it has limited the scope of the proposed amendments to a novation that is required by such laws or regulations. Do you agree that the scope of the proposed amendment will provide relief for all novations arising from such legislation or regulations? If not, why not and how would you propose to define the scope?*

As answered to question 1, we believe that the scope should not be limited to novations that are required by laws or regulations. We favor to extend the scope of the proposed amendment to voluntary novations where novations are to a new counterparty and where the substantial terms of the contract are not modified.

**Question 3**

*The IASB also proposes that equivalent amendments to those proposed for IAS 39 be made to the forthcoming chapter on hedge accounting which will be incorporated in IFRS 9 Financial Instruments. The proposed requirements to be included in IFRS 9 are based on the draft requirements of the chapter on hedge accounting, which is published on the IASB's website.*

*Do you agree? Why or why not?*

We agree that the proposed amendments to IAS 39 should also be included in IFRS 9 taking into account our comments made to questions 1 and 2.

**Question 4**

*The IASB considered requiring disclosures when an entity does not discontinue hedge accounting as a result of a novation that meets the criteria of these proposed amendments to IAS 39. However, the IASB decided not to do so in this circumstance for the reason set out in paragraph BC13 of this proposal.*

*Do you agree? Why or why not?*

We agree that no specific disclosures should be required as the hedge relationship would be ongoing and no disclosure is currently required on other similar hedge relationships.