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Re: ED/2013/5 Regulatory Deferral Accounts

Dear Hans,

The Linde Group is a world-leading gases and engineering company with approximately 61.695 employees working in more than 100 countries worldwide. In the 2012 financial year it achieved sales of EUR 15.3 billion. We offer a wide range of compressed and liquefied gases as well as chemicals and we are therefore an important and reliable partner for a huge variety of industries. Our engineering division is successful throughout the world, with its focus on promising market segments such as olefin plants, natural gas plants and air separation plants, as well as hydrogen and synthesis gas plants.

The Linde Group is listed in the leading German share index (DAX) and prepares its consolidated financial statements in accordance with International Financial Reporting Standards as adopted by the European Union.

The Linde Group welcomes very much to have the possibility to comment on the IASB's Exposure Draft ED/2013/5 "Regulatory Deferral Accounts". Please find our comments attached to this letter.

If you have any questions or remarks, please do not hesitate to contact us. We would be happy to discuss any of our comments with you at your convenience.

Yours sincerely,

Bjoern Schneider  
Head of Group Accounting & Reporting

Dr. Hans-Dieter Fladung  
Head of IFRS Competence Centre & External  
Reporting

**Appendix I: Answers to the questions raised in the ED**

Question 1:

The Exposure Draft proposes to restrict the scope to those first-time adopters of IFRS that recognised regulatory deferral account balances in their financial statements in accordance with their previous GAAP. Is the scope restriction appropriate? Why or why not?

We would be careful establishing privileges for first-time adopters whose financial statements are then not or only with difficulties comparable with those issued by other IFRS preparers. We consider comparability (period wise but also between different applicants) as one of the main drivers for decision usefulness and therefore all standards that undermine comparability counterproductive. The asset / liability driven way of accounting that seems to be the leading idea of IFRS should be applicable for all preparers and we do not think that it is useful to soften the underlying principles by allowing single preparers to post transitory non-asset / non-liability accounts.

Question 2:

The Exposure Draft proposes two criteria that must be met for regulatory deferral accounts to be within the scope of the proposed interim Standard. These criteria require that:

- (a) an authorised body (the rate regulator) restricts the price that the entity can charge its customers for the goods or services that the entity provides, and that price binds the customers; and
- (b) the price established by regulation (the rate) is designed to recover the entity's allowable costs of providing the regulated goods or services (see paragraphs 7-8 and BC33-BC34).

Are the scope criteria for regulatory deferral accounts appropriate? Why or why not?

Those criteria seem to undertake the effort to give the desired posting an asset / liability character. This would be the case if the preparers had a receivable or liability out of the regulation, i.e. if there was the need to redeem overpaid compensation received or if there was a title to claim additional payments in return for underpriced services / deliveries made in the past. In the absence of such title / obligation we see no room for an asset / liability. This should be clearly stated here. Additionally, it is not mentioned how to proceed when costs are not recovered in a regulated market.

Question 3:

The Exposure Draft proposes that if an entity is eligible to adopt the [draft] interim Standard it is permitted, but not required, to apply it. If an eligible entity chooses to apply it, the entity must apply the requirements to all of the rate-regulated activities and resulting regulatory deferral account balances within the scope. If an eligible entity chooses not to adopt the [draft] interim Standard, it would derecognise any regulatory deferral account balances that would not be permitted to be recognised in accordance with other Standards and the Conceptual Framework (see paragraphs 6, BC11 and BC49).

Do you agree that adoption of the [draft] interim Standard should be optional for entities within its scope? If not, why not?

We consider it problematic if single preparers may freely elect policies that are of limited compliance with the principles laid down in the Framework. The Framework should be the guiding light for all future and actual IFRSs and the “acid test” for every policy to be allowed or established within the IFRS-preparers.

We do not see any necessity to install a separate standard for rate-regulated activities, since assets/liabilities arising from regulated activities can be accounted for in the same way as other assets/liabilities derived from the general principles of the Framework and the present IFRS.

Question 5:

The Exposure Draft proposes that, in the absence of any specific exemption or exception contained within the [draft] interim Standard, other Standards shall apply to regulatory deferral account balances in the same way as they apply to assets and liabilities that are recognised in accordance with other Standards (see paragraphs 16–17, Appendix B and paragraph BC51).

Is the approach to the general application of other Standards to the regulatory deferral account balances appropriate? Why or why not?

On a stand alone basis, this ruling seems appropriate, since it does not leave the preparers the possibility to decide against IFRS principles when initially adopting IFRS.

Question 6:

The Exposure Draft proposes that an entity should apply the requirements of all other Standards before applying the requirements of this [draft] interim Standard. In addition, the Exposure Draft proposes that the incremental amounts that are recognised as regulatory deferral account balances and movements in those balances should then be isolated by presenting them separately from the assets, liabilities, income and expenses that are recognised in accordance with other Standards (see paragraphs 6, 18–21 and BC55–BC62).

Is this separate presentation approach appropriate? Why or why not?

This is the minimum requirement that we consider necessary in order to isolate non-IFRS adjustments and make such adjustments transparent for users of the financial statements.

Question 7:

The Exposure Draft proposes disclosure requirements to enable users of financial statements to understand the nature and financial effects of rate regulation on the entity's activities and to identify and explain the amounts of the regulatory deferral account balances that are recognised in the financial statements (see paragraphs 22-33 and BC65).

Do the proposed disclosure requirements provide decision-useful information? Why or why not? Please identify any disclosure requirements that you think should be removed from, or added to, the [draft] interim Standard.

This is the minimum requirement that we consider necessary in order to illustrate non-IFRS adjustments and make such adjustments understandable for users of the financial statements.

Question 8:

The Exposure Draft explicitly refers to materiality and other factors that an entity should consider when deciding how to meet the proposed disclosure requirements (see paragraphs 22-24 and BC63-BC64). Is this approach appropriate? Why or why not?

Unless materiality is explicitly and applicably defined in a standard, we consider the reference only of limited effectiveness. If the impact of regulatory deferral accounts was immaterial, the preparers would certainly not opt for the possibility to present such an item in the balance sheet / profit and loss account. Therefore the mere existence of such items speaks per se for the necessity of disclosures.

Question 9:

The Exposure Draft does not propose any specific transition requirements because it will initially be applied at the same time as IFRS 1, which sets out the transition requirements and relief available. Is the transition approach appropriate? Why or why not?

Within the scope and application of the standard, the transition approach seems consistent.

Question 10:

Do you have any other comments on the proposals in the Exposure Draft?

No.