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Ref: *EFRAG's Comment Letter on the IASB's ED/2020/1 Regulatory Assets and Regulatory Liabilities.*

Madrid, 30<sup>th</sup> July 2021

Dear Jean-Paul,

In the present letter ICAC gives its view on EFRAG's position presented in your draft comment letter on IASB's the Exposure Draft ED/2021/1 Regulatory Assets and Regulatory Liabilities.

The proposed standard addresses a non-market economy scenario that has not been considered in the development of accounting standards, especially IFRS 15. Therefore, the ED is welcome because it helps to properly describe the effects of agreements that do not fit in the assumptions that are currently included in IFRS 15, and it responds to stakeholder requests to conclude on if rate regulation creates enforceable rights and enforceable obligations not recognized under current IFRS Standards and that could qualify for recognition as assets and liabilities.

We are of the opinion that the formal form of the agreement should be irrelevant, provided that it gives rise to enforceable rights and obligations. However, we share the view that it would be helpful to provide more specific guidance and examples on what constitutes a regulatory agreement and a description of the characteristics of a regulator. Also, we support that it should be mentioned that the regulatory body should be independent of the regulated entity to improve the understanding of the scope of the future standard, for example, solving possible doubts abouts if it could be applied to cooperative societies. We consider that the interaction with IFRIC 12 should be explored more in detail and included in the standard.

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FIRMANTE(1) : SANTIAGO DURÁN DOMÍNGUEZ | FECHA : 30/07/2021 09:50 | Sin acción específica





We agree with the proposed definitions of regulatory assets and regulatory liabilities and their fit within the Conceptual Framework.

About the total allowed compensation, we support the view 2 proposed in your draft comment letter, because the asset under construction does not provide services to customers until it becomes operational. The inclusion in the rate of part or all of the cost of this asset during the construction period represents an advance on future rates, as in any construction agreement in which the customer advances part of the amounts that he will later receive.

In our opinion, the "more likely than not" recognition criterion is appropriate because is more stringent than the absence of a low probability of occurrence of the economic benefits associated with the asset or liability. We agree with the recommendation of including guidance for the derecognition of regulatory assets and liabilities, in line with EFRAG comment letter.

Regarding the discounted cash flow technique we consider it is appropriate because the consideration to which an entity is entitled to goods or services already provided is subject to uncertainty, as it is the case with variable consideration, being reasonable that the entity can choose either the most likely amount or the expected value method, depending on which approach provides more relevant information. We agree with the ED when it decides not to incorporate the own non-performance risk, as it would be counter-intuitive and this has also been decided for the valuation of financial liabilities.

We support EFRAG's view about the boundary of the regulatory agreement should be determined based on an entity's enforceable rights and enforceable obligations under the regulatory agreement rather than being an accounting judgement.

We recommend that the IASB provides a practical exemption, from the beginning of the agreement, if the rate is not significantly different from the minimum rate. We consider that the discounting of regulatory assets and liabilities captures the effect of the time value of money, so we support the view 2 proposed in EFRAG comment letter that considers the discounting of regulatory assets and regulatory liabilities should follow the general discounting principles in IFRS Standards.

About the presentation in the face of the financial statements, we agree also with providing a separate line item, however we reckon that the regulatory interest income and regulatory interest expense should be presented as financial, in line with the ED 2019/7 General Presentation and Disclosures.

We share the view about weighing the expected user benefits against prepares concerns around the detailed nature of the proposed disclosure with the aim of selecting those requirements that will be ascertained to be beneficial to users of the financial information without imposing and undue burden for preparers.

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We support EFRAG suggestion about the effective date being 24 months after the obligation of the final Standard. We would need further clarification about the IASB decision to charge to goodwill and not to retain earnings all the adjustments to regulatory assets and liabilities resulting from the simplified treatment of the past business combinations, when opting for the proposed retrospective application of the proposals.

Finally, we would like to mention the adaptation of the Spanish Accounting Plan to public infrastructure concession companies is based on a cost-recovery approach, including financial expenses. Concerning these, the Spanish standard requires recognition as a regulatory asset of the financial expenses derived from the financing of a concession infrastructure and accrued after the infrastructure is available for use. This regulatory asset is amortized over the revenue generation period of the infrastructure. As indicated in the introduction to the standard, this accounting treatment takes into account the singularity of the concession business and its legal framework, which encourages the participation of the private sector in the financing of the infrastructure associated with the provision of public services, allowing the use of debt as the predominant form of financing. This financing generates high interest payments in the early years of the project, which are gradually recovered over the life of the concession through their inclusion in the regulated rates.

In our view, the interest expense would form part of the total allowed compensation and the deferred amount would be recognized as regulatory revenue and a regulatory asset.

Please don't hesitate to contact us if you would like to clarify any point of this letter.

Yours sincerely,

Santiago Durán Domínguez

Chairman of the ICAC

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