EFRAG

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Belgium

December 11, 2014

Dear Mrs Flores,

Re: Short discussion on "LEVIES: What would have to be changed in IFRS for a different accounting outcome?"

We are pleased to have the opportunity to respond to the EFRAG Discussion Paper on levies (the DP).

We share concerns expressed by some with the outcome obtained by applying IFRIC 21 because we believe that the cost of a levy charged on a periodic basis should be recognised over the period it relates to. We therefore believe that financial statements prepared in accordance with IFRIC 21 are not relevant and impair understanding of the entity's performance, especially for interim periods.

We welcome the fact that EFRAG is trying to resolve this issue, which is one that some constituents had anticipated would be a problem at an early stage in the adoption process. Indeed, perhaps we in Europe should consider whether any modifications could be made to the endorsement process to ensure that similar issues could be resolved earlier in the process in the future.

Nevertheless, like EFRAG, we believe that it is necessary to find a solution to attenuate the issues caused by this interpretation. Amongst the solutions proposed, we believe that the most practical, the easiest and the quickest to implement would be an amendment to IAS 34 along the same lines as the existing model proposed by the FASB (Topic 270 Interim Reporting). "*In general, the results for each interim period shall be based on the accounting principles and practices used by an entity in the preparation of its latest annual financial statements unless a change in an accounting practice or policy has been adopted in the current year. However, certain accounting principles and practices followed*

for annual reporting purposes may require modification at interim reporting dates so that the reported results for the interim period may better relate to the results of operations for the annual period (270.10.45.2). "
"Costs and expenses other than product costs shall be charged to income in interim periods as incurred, or be allocated among interim periods based on an estimate of time expired, benefit received or activity associated with the periods. Procedures adopted for assigning specific cost and expense items to an interim period shall be consistent with the bases followed by the entity in reporting results of operations at annual reporting dates. However, if a specific cost or expense item charged to expense for annual reporting purposes benefits more than one interim period, the cost or expense item may be allocated to those interim periods (270.10.45.8)"

IAS 34 should specify that because levies are related to a full year's activities but are incurred at infrequent intervals during the year, they need to be allocated to interim periods to avoid distortion of interim financial results

Indeed, the main short-term objective should be to restore economic sense to interim financial statements, even if it may lead to an accounting model which may be considered to be "impure" in terms of the accounting concepts behind it.

In respect of the other solutions proposed, please find below our main comments:

- *Amending the definition and recognition of a liability*
  Although we believe that the direction taken by the Board in its review of the conceptual framework may lead to more appropriate accounting treatment, we believe however that it would be dangerous to change the definition and recognition criteria for all liabilities for the sole purpose of solving a specific issue relating to levies. In addition, the completion of the conceptual framework and the potential reopening of IAS 37 will not occur in the foreseeable future.

- *Developing guidance to assess if the entity is receiving an asset or a service in exchange for the payment of the levy*
  The IFRIC has twice refused to conclude on this issue and we do not believe that one can develop a principle applicable to all levies. However, we believe that it is already possible for some levies to be recognized as an asset without modifying current standards, but this accounting treatment requires a case-by-case assessment.

- *Considering if other features of the law could affect when the obligating event occurs, beyond the date specified in the law*
  We fully agree that it is necessary to consider more than just the date specified in the law in order to identify the obligating event, given the very specific nature of levies and their lack of economic substance. We believe that this approach could be implemented quickly and without modifying existing standards.

Indeed, as mentioned in our comment letter on the Draft Interpretation (the DI), we believe that the mechanism of the legislation in general, and the identification of the "obligating event" that triggers the payments, in particular, have little to do with the economic substance of the entity's operations, but are motivated largely by the authority's funding requirements and the constraints placed upon it by the constitution within which it functions. The purpose of the levies is to raise funds for the authority to utilise during the next budgetary period, usually of one year. This is often reflected in the periodicity of the levy and the date of the "obligating event" identified in the legislation. We offer the following as an example of this fund-raising constraint. In France the administration is not permitted to raise taxes by retroactive legislation. Development and approval of the annual budget for year N+1 can be slow and not completed until just before the fiscal year-end N. In order to ensure that funds are generated as quickly as possible, the solution chosen in some instances is to set a trigger event on 1 January in year N+1 but based on data and activity of year N. In these circumstances one may legitimately question whether the trigger event identified in the legislation is the substantive obligating event or rather the mechanism used to set the payment date of the levy based on the previous year's activity. One might also question whether the charge relates only to one day or to the whole of the budgetary period for which it is raised or upon which the amount is based. In common with the FASB (see above) we think the latter is the substance of the levy.

- *Applying the IAS 12 Income Taxes model*

  We agree that levies are similar to income tax as they are both enacted by law and the counterparty is the Government. This is why we believe that both may be addressed in the same comprehensive project (see our next comment).
  However, we believe that the EFRAG document should go further in exploring this solution within the current standards, including the specific provision provided in IAS 34 related to income tax.

- *Carrying out a Research project for levies and other similar transactions*

  We have already suggested that the Board should carry out such a project. Please find below an extract from our comment letter in response to the DI.

  "The obligatory and constraining nature of the relationship between a public authority and a reporting entity is very different from that which exists between the entity and most other participants in the markets in which it operates. We think therefore that, rather than publish the DI as it stands, it would be more useful for the Board to consider the particular nature of the fund-raising activities of the public authorities and how the entity should account for these in a comprehensive project covering all forms of taxes and quasi-taxes, including income taxes. Such a project would benefit from taking into account current developments in respect of the recognition and measurement of liabilities and the nature of the asset or expense they give rise to. In view of the current views on the orientation of the Board's Agenda, we suggest that this could be a project for the medium term, but that there is also no urgency for the publication of this DI."

If you have any questions or a need for further information, please do not hesitate to contact us.

Yours sincerely,

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