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Mr Jean-Paul Gauzès
Chairman – EFRAG Board
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Belgium

EFRAG's Draft Endorsement Advice of the IASB's Amendments to IFRS 4: Applying IFRS 9 Financial Instruments with IFRS 4 Insurance Contracts

Dear Mr. Gauzès, Cher Jean-Paul,

I am writing on behalf of the Autorité des Normes Comptables (ANC) to express our views on the above-mentioned Draft Endorsement Advice of the Amendments to IFRS 4: Applying IFRS 9 financial instruments with IFRS 4 insurance contracts. This letter sets out the most critical comments raised by interested stakeholders involved in ANC's due process. Our Board has reviewed and approved this letter on December 9th 2016.

Preliminary comments on the context of the Amendments

ANC is fully supportive of the IASB's efforts to provide a remedy to the issue raised in the qualified EFRAG's Endorsement Advice of IFRS 9 stating that the new standard "is conducive to the European public good, except for the impact on the insurance industry of applying IFRS 9 before the finalisation of the forthcoming insurance contracts standard" (IFRS 17 to replace the current IFRS 4). The issue results from the interaction between requirements for accounting for liabilities arising on insurance contracts and the requirements for accounting for financial instruments under IFRS 9.

In its Amendments, IASB has suggested two options in order to address the non-alignment of the effective dates of IFRS 9 and IFRS 17 and the resulting (i) mismatch and volatility issue on the one hand and (ii) cost issue on the other hand. However, French constituents concur with EFRAG's comment letter's assessment that one of the options, the overlay, does not properly address issues raised: it does neither fully address the mismatch issue (merely shifting the volatility from the income statement into the equity), nor address the cost issue, since it would imply dual systems and potentially increased costs. By contrast with EFRAG's assessment, ANC therefore considers that "the overlay approach that would be available to all entities undertaking insurance activities" is, in most cases, not a viable alternative. Therefore the temporary exemption from applying IFRS 9 is by far the most suitable option.

ANC shares with the European Commission the concern that the Amendments shall not introduce additional imbalances reducing the level playing field among the current groups undertaking insurance activities. Therefore, consistent with EFRAG's comment letter dated 12th February 2016, ANC supports "that the temporary exemption from applying IFRS 9 should also be available at levels below a mixed group reporting entity" since a "temporary breach in the uniformity of accounting policies [within a reporting group] is acceptable" in order to have "a level playing field in the insurance sector".

Additional information suggested to be considered in the endorsement advice

ANC shares EFRAG's analysis concluding that the "temporary exemption" option introduced by the Amendments is not contrary to the true and fair view principle of the Accounting Directive.

With regard to the European Public Good criterion, ANC also agrees that the optional temporary exemption from the application of IFRS 9 provides an adequate remedy for predominant insurers. However, this option is not available to entities undertaking significant insurance activities that are not predominant insurers. Accordingly, IFRS 9 and the Amendments are conducive to the European Public Good, except for entities undertaking insurance activities that are not predominant insurers.

ANC concurs with EFRAG stating that "a completely level playing field among all entities undertaking insurance activities" cannot be achieved with the overlay approach (for the above given reasons) but rather with the availability of the temporary exemption.

EFRAG's statement (Appendix 3 § 43) that it "is not in a position to conclude on whether [there is] a material competition issue from an economic perspective" is not substantiated. Actually, as mentioned in appendix 3 (§ 27) of EFRAG's endorsement advice, 20-25 % of the main 50 European groups undertaking insurance activities are not predominant insurers and therefore excluded from the temporary exemption. This portion is even greater in France. These insurers are considered as material by ANC.

In addition, ANC agrees that the competition issue among the Insurance industry includes the "costs mitigation" (as mentioned in Appendix 3 § 43) but also considers that it is not limited to it. In June 2016, the French Bank and Insurance Industries have provided the European Commission and EFRAG with an impact study of the effects of IFRS 9 for insurance activities undertaken by financial conglomerates. It confirms that these bank insurers hold 22 % of the insurance liabilities of the European top ten insurers, and 62 % of all French life insurance liabilities. It also provides an assessment of incremental costs induced by the successive implementation of IFRS 9 and IFRS 17, sweeping aside the argument that such conglomerates may benefit from synergies (Appendix 3 § 40).

Moreover, it highlights that one major competitive argument in assessing the level playing field among insurers results from the behavioural incentives during the transition period prior to the implementation of IFRS 9. In fact, in the Insurance industry, a large volume of assets currently measured at cost or at fair value through OCI have accumulated unrealised gains which will be frozen in retained earning upon transition to IFRS 9. All insurers may therefore be tempted to manage their assets in order to recognise such gains in income statements prior to the transition. However, the time span prior to the IFRS 9 implementation differs significantly between predominant and non-predominant insurers. We suggest this argument be upheld by EFRAG in its assessment of the level playing field.

Overall assessment

ANC supports the optional temporary exemption introduced by the Amendments of IFRS 4, as a remedy to the qualification in the IFRS 9 endorsement advice relating to insurance activities. The temporary exemption from the application of IFRS 9 provides an adequate remedy for predominant insurers, but is not available to other entities undertaking insurance activities. For the latter, the overlay approach is not a workable alternative.

ANC shares with the European Commission the concern that the Amendments shall not introduce additional imbalances reducing the level playing field among the current groups undertaking insurance activities. In ANC's view, the restricted availability of the temporary exemption not only raises volatility and cost issues but also behavioural incentives during the transition period prior to the application of IFRS 9. Moreover, non-predominant insurers do represent a material portion of European insurance activities and a major part of the French ones.

Accordingly, IFRS 9 and the Amendments to IFRS 4 are conducive to the European Public Good, except for entities undertaking insurance activities that are not predominant insurers.

Please do not hesitate to contact us should you want to discuss any aspect of our comment letter.

Yours sincerely, Très amicalement.

Patrick de Cambourg

Patrick de CAMBOURG