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n° 53

Paris, the

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Monsieur Hans HOOGERVORST
Chairman
IASB

30, Cannon Street
LONDON EC4M 6XH
UNITED KINGDOM

Re: IASB ED 2013/2 Novation of derivatives and continuation of hedge accounting: proposed amendments to IAS 39 and IFRS 9

Dear Mr Hoogervorst,

I am writing on behalf of the Autorité des Normes Comptables (ANC) to express our views on the Exposure Draft (ED) Novation of derivatives and continuation of hedge accounting released by the IASB in February 2013.

The ANC welcomes the IASB's decision to propose an urgent amendment to IAS 39 in order to take into account new regulations related to the clearing through a central counterparty (CCP), as requested by the G20 and the FSB.


We agree with the IASB stating in BC17 that "accounting for the hedging relationship that existed before the novation as a continuing hedging relationship in this specific situation would provide more useful information to users of financial statements".

However, we are concerned by the narrow scope of the amendment. Namely, the amendment should not be limited only to mandatory novations to CCPs but extended to voluntary novations to CCPs in the light of sound risk management practices encouraged by the G20 and the FSB, provided that the second and third conditions of the ED, which we fully agree with, are met. A revised wording of the first condition is proposed in the appendix.

Our detailed comments have been included in the Appendix attached to this letter.

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

Yours sincerely,



Jérôme HAAS

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?

The ANC welcomes the IASB's decision to propose an urgent amendment to IAS 39 in order to take into account new regulations related to the clearing through a central counterparty (CCP), as requested by the G20 and the FSB.

We agree with the IASB stating in BC17 that "accounting for the hedging relationship that existed before the novation as a continuing hedging relationship in this specific situation would provide more useful information to users of financial statements".

We agree with the second and the third criteria. However, we are concerned with the narrow scope of the first condition. Absent any obligation to clear over the counter (OTC) derivatives, a novation to a CCP made on a voluntary basis to improve the credit risk management of derivatives should not trigger discontinuation of a hedge relationship. Entities should not be penalised because they go beyond or anticipate a new regulation, but only when the novation involves a central counterparty and when the change to the terms of the novated derivative are limited to those allowed by the third condition. An entity may go beyond a regulation when, for instance, it imposes as a sound internal management rule the clearing of OTC derivatives to all its subsidiaries even when it is not required by the local regulation. An entity may also go beyond a regulation when it chooses to clear its OTC derivatives although the entity benefits from an exception (e.g. under specified thresholds).

Therefore, we suggest that the Board states the conditions as follows :

- (i) the novation is required by laws or regulations or is voluntary. This includes the anticipation of new enacted 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*

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 explained in our answer to Q1, the ANC considers that limiting the scope of the proposed amendment to a novation that is *required* by law or regulations is too restrictive. As suggested in our answer to Q1, the scope of the proposed amendment should be extended to voluntary novations to a CCP. We also note that the SEC's position is less restricted than the IASB's current proposal.

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?

Although IFRS 9 is not yet finalised, we agree that the future chapter of IFRS 9 on hedge accounting should be amended consistently with the amendment to IAS 39 (taking into account our proposal in our answers to Q1 and Q2).

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?

The ANC agrees with the IASB that no additional disclosure is needed when hedge accounting is not discontinued. Moreover, regarding the fact that a novation to a CCP occurs, we note that IAS 39 already requires an entity to provide information regarding the nature and extent of risk arising from financial instruments (such as credit risk and liquidity risk).