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n°14

Paris, the 10th January 2012

Madame Françoise FLORES
Chairman
EFRAG –European Financial Reporting
Advisory Group

35 Square de Meeûs
B – 1000 BRUSSELS

Re: ANC's response to EFRAG's recommendation to endorse the amendment issued by the IASB as regards IAS 12 Deferred Tax (2010)

Dear Mrs Florès,

The ANC is herewith responding to your proposed recommendation to endorse the amendment issued by the IASB as regards IAS 12 Deferred Tax (2010) : Recovery of underlying assets.

Notwithstanding the limited scope of the amendment and its anticipated low impact on the economy in France, the ANC has considered it necessary to subject the amendment to a technical assessment against the European Union's endorsement criteria.

The ANC's technical assessment finds itself in agreement with the dissenting opinion expressed by one TEG member, (which is reproduced in the Appendix hereafter) : the amendment would be misleading in some cases ; and it furthermore appears to be unnecessary to resolve the issue it was drawn up for. Such position and assessment are consistent with the position the ANC took in commenting on the proposed amendments at the exposure-draft stage[1]. Therefore, the ANC considers that the proposed amendment does not meet the relevance criterion for endorsement.

Beyond the reasons expressed by the TEG member in the dissenting opinion, the ANC notes that this amendment, supposedly a 'minor' amendment, has already given rise to discussions at the IFRS Interpretation Committee's level. The Committee has published a rejection that contradicts its initial understanding of how the rebuttable presumption in the amendment should be applied.

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[1] ANC comment letter available at : http://www.anc.gouv.fr/sections/textes_et_reponses_2/reponses_aux_questio/iasb/2010/2010-11-8_anc_ed_def/downloadFile/file/2010-11-8_ANC_ED_Deferred_Tax__8211?nocache=1289226568.89

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Notwithstanding whether it supports one or the other position, the ANC considers that this process has demonstrated that neither the objectives of the amendment nor its consequences are clear and have been fully considered :

- if the IASB's intention was to change the accounting for deferred taxes for most of the investment properties accounted for using the fair value method, then the rejection issued by the IFRS IC contradicts the intentions of the IASB for issuing the amendement. The IFRS IC in its initial drafting of the rejection implied that this was the case and that such intention was the reason for the rebuttable presumption. However, the Committee changed its view in its final rejection ;
- if the amendment is not intended to change the accounting for deferred taxes for most of the investment properties accounted for using the fair value method, but only to accommodate some who seem to have difficulties in applying IAS 12 to a certain fact pattern, the ANC is still of the opinion that this amendment is unnecessary but also therefore creates confusion.

This is why the ANC considers that the confused situation around this amendment does not enable the amendment to meet the comparability criterion which, together with it not meeting the relevance criterion, will cause it to not meet the understandability criterion either.

With the amendment not meeting either the relevance, the comparability, nor the understandability criteria, the ANC is not in a position to support the endorsement of this amendment by the European Union as proposed by Efrag.

Yours sincerely,

Jérôme HAAS

Appendix

Extract from Efrag's Draft endorsement advice letter

Dissenting opinion

1 One EFRAG TEG member dissents from recommending endorsement of Deferred Tax: Recovery of Underlying Assets (Amendments to IAS 12) ('the Amendments'). That EFRAG TEG member's views are explained in this appendix.

2 The EFRAG TEG member believes that the Amendments should not be endorsed for use in the European Union and therefore dissents from EFRAG's tentative decision to recommend its endorsement. This EFRAG TEG member has reached this conclusion because he believes aspects of the Amendments do not meet the criteria for endorsement. In particular:

(a) Paragraph 51C of the amended IAS 12 requires that, in measuring deferred tax on an investment property carried at fair value, there is a rebuttable presumption that the carrying amount of the investment property will be recovered through sale. In the view of this EFRAG TEG member, this presumption of recovery through sale is unnecessary, and may result in measurement of tax at an amount which is misleading.

(b) As IASB note in paragraph BC8 to the Amendments, IAS 12 includes a principle that the measurement of deferred tax liabilities and deferred tax assets should reflect the tax consequences that would follow from the manner in which the entity expects to recover or settle the carrying amount of its assets and liabilities. Paragraph BC8 further notes that in many cases, an entity expects to rent out investment property to earn rental income and then sell it to gain from capital appreciation at some point in the future. In the view of this EFRAG TEG member, the principle is adequate to deal with investment property which is used and then sold, and should result in deferred tax that reflects a period of use followed by sale. In practice, the resulting amount of deferred tax may be the same as that based on an assumption of sale. In such cases the Amendments are unnecessary, and promote a rule-based approach at the expense of principles.

(c) In cases where the resulting amount of deferred tax under the Amendments differs from the tax based on an assumption of use followed by sale, as occurs in the 'Example illustrating paragraph 51C', the deferred tax calculated under the Amendments will not represent a best estimate of future cash flows and may thus be misleading.