

CEIOPS

Committee of European Insurance and Occupational Pensions Supervisors

Mr. Stig Enevoldsen
Chairman of the Technical Experts Group
EFRAG
Avenue des Arts 41
1040 Brussels
Belgium

CEIOPS Sebastian-Kneipp-Str. 41 60439 Frankfurt am Main Germany tel: +49-69-951119-20 fax: +49-69-951119-19
--

9 July 2004

Dear Mr. Enevoldsen,

Re: CEIOPS Comments on EFRAG Letter on the Exposure Draft proposed Amendments to *IAS 39 Financial Instruments Recognition and Measurement: The Fair Value Option*

On behalf of CEIOPS, I am pleased to provide you with some comments about the EFRAG letter on the Exposure Draft of proposed Amendments to *IAS 39 Financial Instruments Recognition and Measurement: The Fair Value Option*.

The following comments regard the main areas of concern shared by EU Insurance Supervisors. According to the specific situation in each jurisdiction, some of them might provide additional comments in relation to issues particularly relevant to their own market and regulation.

Insurance supervisors widely agree with the conclusions drawn by EFRAG in its draft letter that the proposed amendments do not meet effectively the Board's stated objectives of addressing the use of inappropriate fair values, reducing volatility in profit or loss and avoiding the recognition of gains and losses in profit or loss arising from changes in an entity's own creditworthiness.

Nevertheless, concerns about the proposed amendments are not the same amongst supervisors, due to the differences in the national accounting regimes that will persist pending Phase 1 of IFRS 4. Actually, the main concern of insurance supervisors on IAS 39 is related to the “mismatch issue” so that the evaluation of the Exposure Draft is tightly linked to its possible effects on the consistency between the measurement criteria of assets and liabilities given that, pending Phase 1, IFRS 4 allows the application of the national current accounting policies concerning the measurement of insurance liabilities.

Therefore, in jurisdictions where insurance liabilities are measured at fair value, supervisors are satisfied with the fair value option actually in force and are more concerned about the fact that the Exposure Draft widens the possibility already given by the current IAS 39 of not measuring financial instruments at fair value, leading to financials statements that do not fully reflect the exposure of insurance companies to financial risks.

On the other hand, in jurisdictions where insurance liabilities are measured at cost, supervisors believe that the proposed amendments still envisage too wide a scope for the potential application of the Fair Value Option: although just practical application will show whether the proposed amendments will result in a real limitation for the use of the fair value option, in these supervisors’ opinion the amendments are likely to have little effect on what instruments the option are applied to, since a lot of instruments could include an embedded derivative, irrespective of whether or not it must be separated from the financial instrument.

Concerning specific aspects of the Exposure Draft on the Fair Value Option, supervisors shared the following considerations:

- ♦ the introduction of the notion of “verifiable” fair value might be misleading and might generate unnecessary confusion about the application of fair value measurement, by giving rise to an undesirable dual standard consisting of 1) “verifiable” fair value measurement in relation to items designated for the fair value option and of 2) “just reliable” fair value measurement for other items (available for sale and held for trading) that IAS 39 requires to be measured at fair value. Therefore, supervisors believe that the verifiability test either should be required for all fair value measurements or- supposing that the reliability notion already includes the notion of verifiability - the proposed paragraph 48B should be deleted;
- ♦ reference made to supervisors appears to be somehow misleading: on one hand, it might suggest that supervisors are in charge of specific duties concerning the oversight of the application of the fair value requirements, so that it might create uncertainty about the powers of supervisors to overrule the requirements of IAS 39, despite the clear statement included in the Basis for Conclusion (BC11.b). On the other hand, since this reference is made just in one standard and in relation to this sole item, it might suggest that this is the sole task left to supervisors while they clearly have different tasks to perform, for supervisory reporting purposes as well as in the enforcement process.

It is also worth to underline that the wording of paragraph 9 b) is not very clear and might consequently generate additional confusion. Actually, if it is not clearly specified that the five criteria to apply the fair value option are to be read sequentially, as it is EFRAG's and also our understanding, the fourth criterion will lead to consider all the financial assets -except for loans and receivables- available for designation as at fair value through profit and loss.

In the light of the aforementioned considerations, insurance supervisors agree with EFRAG in recommending the IASB to reconsider its approach in meeting the concerns raised by prudential supervisors and other regulators.

Should you wish to have any further clarification on CEIOPS's advice or to discuss the proposed issues more in-depth, please do not hesitate to contact Mr. Fausto Parente at the following e-mail address fausto.parente@isvap.it or by phone at +39-06-42.133.481.

Yours sincerely,


Alberto Corinti
CEIOPS Secretary General