



**RAAD VOOR DE
JAARVERSLAGGEVING**

Dutch Accounting Standards Board

DASB secretariat:
Mercuriusplein 3, 2132 HA Hoofddorp
Postbus 242, 2130 AE Hoofddorp

Tel: +31 (0)88 4960 391
secretariaat@rjnet.nl
www.rjnet.nl

IFRS Foundation

Columbus Building
7 Westferry Circus
Canary Wharf
London E14 4HD
United Kingdom

Our ref: RJ-IASB 513 B
Direct dial: Tel.: (+31) 88 4960 391
Date: Hoofddorp, March 25th 2024
Re: DASB Comment on Exposure Draft ED/2023/5 'Financial Instruments with Characteristics of Equity'

Dear members of the International Accounting Standards Board,

The Dutch Accounting Standards Board (DASB) appreciates the opportunity to provide a response on the Exposure Draft ED/2023/5 'Financial Instruments with Characteristics of Equity' issued by the IASB in November 2023. We generally support EFRAG's comments as included in their comment letter. In addition, we would like to bring the following items to your particular attention:

The effects of relevant laws or regulations

We acknowledge that a classification that is solely based on contractual terms may lead to outcomes that contradict the principle-based nature of IFRS accounting standards. We believe that the current proposal by the IASB of considering only those contractual rights and obligations that are in addition to those created by relevant laws and regulations could lead to inconsistencies in the classification of instruments in practice. However taking into consideration rights and obligations created by relevant laws and regulations could result in significant classification changes for certain instruments and would represent a change in current requirements beyond the scope of the FICE project.

We believe the current standard and the interpretations thereof have generally led to an acceptable classification outcome in many jurisdictions. Therefore we think current practice may be continued and are not in favor of the proposed clarifications.

We are also of the view that there may be practical challenges in applying the proposals. Specifically we want to note the complexity to assess whether the terms explicitly stated in the contract are actually in addition to what is established by law. We think the application of the proposals to Mandatory Tender Offers is an area that needs to be addressed by the IASB.

Obligation to purchase an entity's own equity instrument

The IASB proposes that the initial amount of the financial liability would be removed from a component of equity other than non-controlling interests (NCI) if the entity does not yet have access to the rights and returns associated with ownership of the equity instruments to which the obligation relates even though, when settled, it is the NCI component of equity that will be debited. We think such accounting treatment, in addition to changing the current practice for a number of entities, could provide information to users which does not reflect the substance of the contracts regarding the share of equity that does not belong to NCI. For example this would lead to an undue and punitive impact on banks prudential own funds where the obligation to purchase NCI would have a more detrimental impact on prudential own funds than the actual purchase of such NCI. Therefore we do not agree with the IASB's proposal.

We support the suggestion of EFRAG for the IASB to address more comprehensively the questions that arise in practice related to the measurement of liabilities under IAS 32. Although we generally welcome the IASB proposals to reduce the current diversity in practice and improve comparability. Assuming the gross presentation is retained we acknowledge there are arguments to consider the measurement of the liability as part of transactions with owners in their capacity as owners and presentation within equity would be consistent with this. Therefore we suggest to make the classification of any gains or losses on remeasurement of the financial liability dependent on whether the entity has access to the rights and returns associated with ownership of the equity instruments to which the obligation relates. If the entity has access to the rights and returns associated with ownership of the equity instruments and thus the NCI is derecognized any gains or losses on remeasurement of the financial liability should be recognized in profit or loss. However, if access to the rights and returns associated with ownership of the equity instruments remains with the NCI, any gains or losses on remeasurement of the financial liability should be recognized in equity.

Contingent settlement provisions

We note some parties have concerns about the ability to continue to apply hedge accounting if certain payments to holders of compound instruments would be classified as equity as a result of the proposals. We would welcome the IASB providing clarification on the impact on hedge accounting for different examples of hedges (cash flow hedges and fair value hedges) or to consider the potential impact in their final amendments.

On the meaning of liquidation we think that the IASB should clearly explain the meaning of the process for permanently ceasing operations and how it interacts with resolution and administration processes and insolvency. We believe that the definition that liquidation is the process that begins *after* an entity has permanently ceased its operations may be too narrow. It may for example be the case that instruments are repaid when the entity has not fully ceased its operations whilst at the same time liquidation, and thus the ultimate ceasing of its operations, is inevitable. We think in such scenario, when it is certain that all shareholders will be repaid, the timing of such payments before or after the entity formally ceases operations should not impact an instrument's classification.

Shareholder discretion

We are currently unsure whether the proposals will cause changes in classification. To reduce diversity in practice we suggest the IASB provides examples of how the proposals are applied to common fact patterns. In the Dutch legal and regulatory context, decisions made in the ordinary General Meeting of Shareholders should be considered as a decision made by the entity.

Please feel free to contact us if you wish to discuss the contents of this letter.

Yours sincerely,

drs. G.M. van Santen RA
Chairman Dutch Accounting Standards Board