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July 30, 2004

Sir David Tweedie, Chairman  
International Accounting Standards Board  
30 Cannon Street  
London EC4M 6XH  
United Kingdom  
By E-Mail

Dear Sir David:

*Introduction and summary conclusion:*

We are pleased to convey our comments on the IASB's Exposure Draft—Amendments to IFRS 3 Business Combinations—“*Combinations by Contract Alone or Involving Mutual Entities*.” **Let us note to the Board that NAMIC strongly disagrees with the proposed amendments.** We have in our specific responses below addressed technical reasons for that disagreement.

NAMIC is an association of approximately 1,300 primarily mutual, property and casualty insurance companies domiciled in the United States, Canada, and Europe, and these insurers range in size from the very smallest farm mutuals to the very largest carriers of risk in the majority of property-casualty lines. The majority of NAMIC's members and the preponderance of premiums written by those members are domestic to the United States and thereby subject to accounting prescribed by the states or provincial governments.

We do understand, however, the important role of the IASB in prescribing standards for an enormous political and economic jurisdiction, which guidance will influence accounting as prescribed by the FASB and SEC in the United States and by the National Association of Insurance Commissioners (NAIC) on behalf of the states in this country. For reason of that international convergence of guidance and in recognition of interests of our European members, we offer comments on the Exposure Draft.

In the United States, NAMIC represents its members' interests in insurance accounting in various committees of the NAIC engaged in the development, maintenance, and interpretation of the statutory authority promulgated by the states. We very frequently participate in those NAIC committees' deliberations on statutory guidance and believe it appropriate now, given the potential for eventual effect on our members, to address this Exposure Draft.

Specific Questions and NAMIC's Responses:

Question 1:

*The Exposure Draft proposes:*

*(a) to remove from IFRS 3 the scope exclusions for business combinations involving two or more mutual entities and business combinations in which separate entities are brought together to form a reporting entity by contract alone without the obtaining of an ownership interests*

*(b) to require the acquirer to measure the cost of a business combination as:*

*i. the aggregate of the following amounts when the combination is one in which the acquirer and acquiree are both mutual entities:*

- the net fair value of the acquiree's identifiable assets, liabilities and contingent liabilities; and*
- the fair value, at the date of exchange, of any assets given, liabilities incurred or assumed, or equity instruments issued by the acquirer in exchange for control of the acquiree*

*Therefore, goodwill would be recognised in the accounting for such transactions only to the extent of any consideration given by the acquirer in exchange for the control of the acquiree.*

*ii. The net fair value of the acquiree's identifiable assets, liabilities and contingent liabilities when the combination is one in which separate entities or businesses are brought together to form a reporting entity by contract alone without the obtaining of an ownership interest. Therefore no goodwill would arise in the accounting for such transactions. Is this an appropriate interim solution to the accounting for such transactions until the Board develops guidance on applying the purchase method to such transactions as part of a subsequent phase of its Business Combinations project? If not, what other approaches would you recommend as an interim solution to the accounting for such transactions, and why?*

Response to Question 1:

Ownership of mutual insurers does not reside in the hands of shareholders and is not transferable in any conventional sense or in any manner analogous to that for equity interest in a joint-stock corporation. Instead, ownership of mutual insurers resides collectively in the legal entity through which the mutual insurer operates and is under the control of policyholders, whose interests are neither severable from the collective whole of ownership nor ratable nor weighted by premium. With respect to mutual insurers, such indivisible ownership of the collective whole exists during operation of the insurance contract, which contract may be terminated for non-payment of premium.

Absent separable equitable interest in the mutual insurance entity and the motives for return and ownership that underlie such separable interest, we believe IFRS 3's lack of relevance begins to be apparent. What, in the circumstances of a combination of mutual insurers, demands determination of "acquirer" and "acquiree" or establishing a purchase price where no such purchase is legally possible or organizationally necessary? How can one mutual insurer be said to own the other, assuming policyholders' voting rights in the combined entity do not differ. What gain in the combination of mutual insurers inures to

any subset of policyholders? Capital and surplus are held in common for the benefit of policyholders.

To be abstracted from the above, we believe, is that the purpose of a mutual insurer is not the same as a conventional business entity. Profit that inures to the benefit of ownership is foremost in the establishment and operation of a conventional joint-stock business entity. Mutual insurers, particularly in their establishment, are created for mutual benefit via pooling of capital that is at the service of multiple policyholders. Rational operation as a going concern suggests that capital must be enhanced via conduct of the mutual insurer's business, yet this surplus from operations is not allocated for benefit of the individual policyholder but rather for the entire body of policyholders.

The questions "Who owns?" and "Who benefits?" are foremost in development of the logical structure of IFRS 3. For reason of the indivisible ownership interest in a mutual insurer, a voting privilege conditioned on payment of premium, and the irrationality of being a policyholder-owner in expectation of gain, we assert to the Board that IFRS 3's structure and provisions are for purposes other than accounting for combinations of mutual insurers.

Therefore, we respectfully urge the Board not to proceed with the amendments now in question that would broaden the scope of IFRS 3 to include mutual insurers and other mutual and cooperative entities. Logical application of IFRS 3 to combinations of mutual entities fails when the nature of ownership of mutual entities is understood.

Question 2:

*The Exposure Draft proposes that no amendments be made to the transitional and effective date requirements in IFRS 3. This would have the effects set out in paragraph 6(a) – 6(c) above on the accounting for business combinations in which the acquirer and acquiree are both mutual entities or in which separate entities or businesses are brought together to form a reporting entity by contract alone without the obtaining of an ownership interest.*

*Is this appropriate? If not, what transitional and effective date arrangements would you recommend for such business combinations and why?*

Response to Question 2:

The question's suggested timing—i. e. retaining IFRS 3's originally proposed transition provisions—for application of the amendments seems highly impractical. There seems little justification, given the late date, that complex transactions occurring before the effective date of the revised IASB in paragraph B13. Indeed, the language of B13 would seem to argue strongly against the question's suggested timing. For avoidance of precisely those problems enumerated in B13, it is not rational for transition to require retroactive application of IFRS 3. Resolution of this problem suggests very strongly that the adoption date of the revised standard should be used as the effective date.

NAMIC is grateful for the opportunity to comment on IFRS 3 and respectfully urges your observation of our reservations with the exposure draft as noted above. Contact with our association on this matter can be made with me or with William Boyd, our manager of financial regulation.

Very truly yours,