



Brussels
BUDG.DDG1/RAB

Subject: Comment letter on Exposure Draft 70 ‘Revenue with Performance Obligations’

Dear Mr Carruthers,

I welcome the opportunity to comment on the above mentioned Exposure Draft 70 ‘Revenue with Performance Obligations’ (‘ED’). The following comments are made in my capacity as the Accounting Officer of the European Commission, and as the Accounting Officer of 22 other EU entities (see list in Annex 1).

I am responsible for, amongst other tasks, the preparation of the consolidated annual accounts of the European Union (‘EU’), which comprise more than 50 European institutions, agencies and European bodies with an annual budget of more than EUR 140 billion, as well as the adoption of the accounting rules applicable by entities preparing annual accounts in the EU context (the ‘EU Accounting Rules’).¹

I am pleased to provide you with my comments with the aim of improving the transparency, relevance and comparability of the financial statements across jurisdictions.

Yours sincerely,

[e-signed]

Nicole SMITH
on behalf of
Rosa ALDEA BUSQUETS

¹ For the sake of clarity, the views presented in this comment letter do not represent the views of the EU Member States, or the views of the European Public Sector Accounting Standards (‘EPSAS’) Team, and are without prejudice to future decisions which may be taken in the context of the EPSAS project.

Mr Ian Carruthers
Chairman
International Public Sector Accounting Standards Board (IPSASB)

Enclosure: Annex 1: List of entities supporting comment letter
 Annex 2: EU's response to the questions raised on the ED

c.c.: Thomas Müller-Marqués Berger, IPSASB Consultative Advisory Group
 Nicole Smith, Director BUDG C,
 Derek Dunphy, Martin Koehler, Lars Ruberg, BUDG C2,
 John Verrinder, Head of Unit ESTAT C1

Annex 1 – List of entities supporting comment letter

Entities under the responsibility of the Accounting Officer of the European Commission

European Institutions
European External Action Service
European Data Protection Supervisor
European Agencies
Agency for the Cooperation of Energy Regulators (ACER)
European Union Agency for Law Enforcement Training (CEPOL)
Body of European Regulators for Electronic Communications (BEREC Office)
European Institute for Gender Equality (EIGE)
European Agency for Safety and Health at Work (EU-OSHA)
Consumers, Health, Agriculture and Food Executive Agency (CHAFEA)
European Global Navigation Satellite Systems Agency (GSA)
European Joint Undertakings
Bio-based Industries Joint Undertaking (BBI-JU)
Shift2Rail Joint Undertaking (Shift2Rail JU)
Fuel Cells and Hydrogen Joint Undertaking (FCH JU)
Single European Sky ATM Research Joint Undertaking (SESAR JU)
Innovative Medicines Initiative Joint Undertaking (IMI JU)
Electronic Components and Systems for European Leadership Joint Undertaking (ECSEL JU)
The European High Performance Computing Joint Undertaking (EuroHPC)
EU Trust Funds
EU Emergency Trust Fund for Africa (EUTF Africa)
EU Trust Fund Bêkou for the Central African Republic (EUTF Bêkou)
EU Trust Fund for Colombia (EUTF Colombia)
EU Regional Trust Fund in Response to the Syrian crisis (EUTF Madad)
Other entities
European Development Fund
European Institute of Innovation & Technology (EIT)

ANNEX 2 – EU’s response to the questions raised on the ED

EXPOSURE DRAFT 70, REVENUE WITH PERFORMANCE OBLIGATIONS

Specific Matter for Comment 1:

This Exposure Draft is based on IFRS 15, Revenue from Contracts with Customers. Because in some jurisdictions public sector entities may not have the power to enter into legal contracts, the IPSASB decided that the scope of this Exposure Draft would be based around binding arrangements. Binding arrangements have been defined as conferring both enforceable rights and obligations on both parties to the arrangement.

Do you agree that the scope of this Exposure Draft is clear? If not, what changes to the scope of the Exposure Draft or the definition of binding arrangements would you make?

EU’s response:

We agree with the rationale for basing the proposed Standard ‘Revenue with Performance Obligations’ on the concept of binding arrangements, especially considering that this conceptual decision will influence the scope of the other proposed Standards ‘Revenue without Performance Obligations’ and ‘Transfer Expenses’.

We therefore very much agree with including means equivalent to legal contracts such as statutory mechanisms (e.g. legislative or executive authority) in the scope of the proposed standards as they arise frequently in the public sector.

As illustrated below, basing the proposed standards on the narrower concept of contracts would preclude the EU’s main source of financing as well as the EU’s main operational activities from being considered under the proposed standards, something which we would not consider appropriate.

- *Definition of binding arrangements in the context of ED 71 ‘Revenue without performance obligations’:*

As a supra-national entity the main source of revenue for the EU are the so-called own resources, which are Member State contributions allocated by levying a uniform percentage on the gross national income of each Member State. The legal framework governing the own resource system and its application consists of several layers, which include the Treaty for the Functioning of the European Union, a Decision of the Council of the European Union as well as a basic legal act such as the Own Resources Regulation (becoming immediately enforceable as law in all member states simultaneously). Basing the proposed standards on the narrow concept of contracts would preclude the own resources being considered under the proposed Standard ‘Revenue without Performance Obligations’.

- *Definition of binding arrangements in the context of ED 72 ‘Transfer expenses’:*

As a supra-national entity the EU often carries out its operations in close cooperation with the EU Member States. The legal framework governing these operations consists of several layers, which include basic legal acts such as regulations (which become immediately enforceable as law in all member

states simultaneously) as well as national programmes agreed between the European Commission and the individual EU Member States. Basing the proposed standards on the narrow concept of contracts would preclude these arrangements from being considered under the proposed Standard 'Transfer expenses'.

Specific Matter for Comment 2:

This Exposure Draft has been developed along with [draft] IPSAS [X] (ED 71), *Revenue without Performance Obligations*, and [draft] IPSAS [X] (ED 72), *Transfer Expenses*, because there is an interaction between them. Although there is an interaction between the three Exposure Drafts, the IPSASB decided that even though ED 72 defines transfer expense, ED 70 did not need to define "transfer revenue" or "transfer revenue with performance obligations" to clarify the mirroring relationship between the exposure drafts. The rationale for this decision is set out in paragraphs BC20–BC22.

Do you agree with the IPSASB's decision not to define "transfer revenue" or "transfer revenue with performance obligations"? If not, why not?

EU's response:

We agree with the IPSASB's decision. Defining the terms 'transfer revenue' and 'transfer revenue with performance obligations' would be merely a subset of revenue already defined in ED 71 and ED 70, respectively.

In our view it is sufficiently clear that the proposed Standard has moved away from the exchange/non-exchange distinction (with only the latter comprising transfer transactions) and rather distinguishes between transactions with or without performance obligations.

Specific Matter for Comment 3:

Because the IPSASB decided to develop two revenue standards – this Exposure Draft on revenue with performance obligations and ED 71 on revenue without performance obligations – the IPSASB decided to provide guidance about accounting for transactions with components relating to both exposure drafts. The application guidance is set out in paragraphs AG69 and AG70.

Do you agree with the application guidance? If not, why not?

EU's response:

We consider it likely that there will be binding arrangements containing both components falling in the scope of the proposed Standard 'Revenue with Performance Obligations' and components falling in the scope of the proposed Standard 'Revenue without Performance Obligations'. We therefore consider it useful to include clear guidance addressing this specific fact pattern in both of these proposed Standards.

However, we note that the wording in the respective paragraphs could be more consistent. Whereas paragraph 9 of ED 71 'Revenue without Performance Obligations' clarifies that 'professional judgement is required to determine whether the different components are identifiable', that notion is not mentioned in

paragraphs AG69-70 of ED 70 'Revenue with Performance Obligations'. Similarly, paragraph 9 of ED 71 refers to the transactions in questions as 'Hybrid Transactions', whereas no such term is used in paragraph AG70 of ED 70. Furthermore, paragraph 9 of ED 71 refers to the transactions in questions as 'revenue transactions includ[ing] components with performance obligations and components without performance obligations' whereas paragraphs AG70 of ED 70 refers more specifically to 'a binding arrangement with an entity with a dual purpose of obtaining goods or services and to help the entity achieve its objectives'. Finally, whereas paragraph 9 of ED 71 clarifies that where it is not possible to distinguish between the components with performance obligations and the components without performance obligations, the transaction is accounted for in accordance with ED 70, paragraph AG70 is silent on this matter.

We would consider it useful to align the respective paragraphs, including the placement in either the core text or the application guidance.

Specific Matter for Comment 4:

The IPSASB decided that this Exposure Draft should include the disclosure requirements that were in IFRS 15. However, the IPSASB acknowledged that those requirements are greater than existing revenue standards.

Do you agree that the disclosure requirements should be aligned with those in IFRS 15, and that no disclosure requirements should be removed? If not, why not?

EU's response:

We agree with the proposed disclosure requirements, as the proposed Standard is based on IFRS 15 'Revenue from Contracts with Customers' and there are no public sector specific reasons to remove any of the disclosures requirements from IFRS 15.

Specific Matter for Comment 5:

In developing this Exposure Draft, the IPSASB noted that some public sector entities may be compelled to enter into binding arrangements to provide goods or services to parties who do not have the ability or intention to pay. As a result, the IPSASB decided to add a disclosure requirement about such transactions in paragraph 120. The rationale for this decision is set out in paragraphs BC38–BC47.

Do you agree with the decision to add the disclosure requirement in paragraph 120 for disclosure of information on transactions which an entity is compelled to enter into by legislation or other governmental policy decisions? If not, why not?

EU's response:

We have no comment on this specific matter as the described fact pattern is not relevant to the EU.