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Mr Wayne Upton
Chairman
IFRS Interpretations Committee
30 Cannon Street
London
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Email: ifric@ifrs.org

28 November 2012

Dear Mr Upton,

Tentative agenda decision: IFRS 3 Business Combinations – Continuing employment

Deloitte Touche Tohmatsu Limited is pleased to respond to the IFRS Interpretation Committee's publication in the September 2012 *IFRIC Update* of the tentative decision not to take onto the IFRIC's agenda a request for interpretation of the appropriate accounting in accordance with IFRS 3 for contingent payments to selling shareholders in circumstances in which those selling shareholders become, or continue as, employees (specifically on whether paragraph B55(a) of IFRS 3 is conclusive in determining that payments to an employee that are forfeited upon termination of employment are remuneration for post-combination services).

We do not agree with the IFRS Interpretations Committee's observation that an arrangement in which contingent payments are automatically forfeited if employment terminates should lead to a conclusion that the arrangement is compensation for post-combination services as the tentative agenda decision does not provide a justification by reference to the Standard for this observation, nor does it rebut the submitter's correct assertion that paragraph B55 introduces subparagraphs (a) to (h) as indicators but paragraph B55(a) uses conclusive language stating that the arrangement described is remuneration for post-combination services.

More generally, we do not believe that either a desire to avoid divergence with US GAAP or to wait for the completion of FASB's post-implementation review of FAS141R are appropriate reasons to reach a premature conclusion on this important issue. If the inconsistency in paragraph B55 is to be resolved, it should be by means of an amendment to the Standard which would allow for a fuller analysis and debate of the appropriate treatment for transactions of this kind and, if practice is to be changed, for proper transitional provisions to be applied.

The need for a deeper consideration is illustrated by circumstances in which under the terms of a business combination *all* selling shareholders become employees and *all* consideration for their shares is forfeited upon termination of employment. These arrangements can arise in business combinations where there is no other means of securing intangible assets (for example, customer relationships and business know-how) that would be lost were the shareholder/employee to leave

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the business, thereby causing a significant deterioration in the fair value of the business acquired. Such payments may, in economic terms, include an element of remuneration but treating them entirely as such (potentially resulting in a significant bargain purchase gain at the date of acquisition, due in part to recognition of those intangible assets, followed by remuneration expense which could be multiple times the acquiree's profits) does not provide a faithful representation of the transaction.

If you have any questions concerning our comments, please contact Veronica Poole in London at +44 (0)20 7007 0884.

Yours sincerely,

Veronica Poole
Global IFRS Leader
Technical