European Securities and Markets Authority

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Mr. Hans Hoogervorst
International Accounting Standards Board
Cannon Street 30
London EC4M 6XH
United Kingdom

The IASB's Exposure Draft *Sale or Contribution of Assets between an Investor and its Associate or Joint Venture*

Dear Mr Hoogervorst,

The European Securities and Markets Authority (ESMA) thanks you for this opportunity to contribute to the IASB's due process. We are pleased to provide you with the following comments aimed at improving the decision-usefulness of financial statements and the transparency and enforceability of IFRSs.

ESMA has considered the IASB's Exposure Draft (ED) *Sale or Contribution of Assets between An Investor and its Associate or Joint Venture*. ESMA supports the proposed amendments to IFRS 10 – *Consolidated Financial Statements* and IAS 28 – *Investment in Associates* but notes that the assessment whether a subsidiary constitutes a business or not requires significant judgment.

We would encourage the IASB to consider how the notion of 'business' is applied in practice as part of its announced post-implementation review on IFRS 3 – *Business Combinations*.

Our detailed comments on the exposure draft are set out in the appendix to this letter. Please do not hesitate to contact us should you wish to discuss any of the issues we have raised.

Yours sincerely,

Steven Maijoor
Chair

European Securities and Markets Authority

Julie Galbo
Chair
Corporate Reporting Standing Committee
European Securities and Markets Authority

APPENDIX – ESMA's detailed answers to the questions in the ED *Sale or Contribution of Assets between An Investor and its Associate or Joint Venture*

Question 1 – proposed amendment to IFRS 10

The IASB proposes to amend IFRS 10 so that the gain or loss resulting from the sale or contribution of a subsidiary that does not constitute a business, as defined in IFRS 3, between an investor and its associate or joint venture is recognised only to the extent of the unrelated investors' interests in the associate or joint venture. The consequence is that a full gain or loss is recognised on the loss of control of a subsidiary that constitutes a business, as defined in IFRS 3, including cases in which the investor retains joint control of, or significant influence over, the investee.

Do you agree with the amendment proposed? Why or why not? If not, what alternative do you propose?

1. ESMA supports the proposed amendments to IFRS 10 – *Consolidated Financial Statements* and to IAS 28 –*Investments in Associates and Joint Ventures*, as it solves the conflict in the guidance on the recognition of gains and losses on the loss of control of a subsidiary. We agree that the recognition of gains and losses should depend on whether the subsidiary constitutes a business or not.

2. However ESMA notices that based on the currently available guidance, assessing whether a subsidiary constitutes a business or not requires significant judgment. As resulting from the IFRS 3 requirements, that assessment has obvious consequences in terms of recognition of goodwill, deferred tax liabilities and recognition of acquisition costs, which might in some cases have a material impact on the financial statements.

3. We would encourage the IASB to consider how the notion of 'business' is applied in practice as part of its announced IFRS 3 post-implementation review.

Question 2 – proposed amendment to IAS 28 (2011)

The IASB proposes to amend IAS 28 (2011) so that:

(a) the current requirements for the partial gain or loss recognition for transactions between an investor and its associate or joint venture only apply to the gain or loss resulting from the sale or contribution of assets that do not constitute a business, as defined in IFRS 3; and

(b) the gain or loss resulting from the sale or contribution of assets that constitute a business, as defined in IFRS 3, between an investor and its associate or joint venture is recognised in full.

Do you agree with the amendment proposed? Why or why not? If not, what alternative do you propose?

4. ESMA supports the proposed amendment to IAS 28 – *Investment in Associates.*

Question 3 – transition requirements

The IASB proposes to apply the proposed amendments to IFRS 10 and IAS 28 (2011) prospectively to sales or contributions occurring in annual periods beginning on or after the date that the proposed amendments would become effective.

Do you agree with the proposed transition requirements? Why or why not? If not, what alternative do you propose?

5. ESMA agrees with the proposed transition requirements.