

**Council of Institutional Investors (“Council”)  
Attachment to the November 30, 2009 Comment Letter to  
International Accounting Standards Committee (“IASC”) Foundation on  
Part 2 of the Constitution Review—Proposals for Enhanced Public  
Accountability<sup>1</sup>  
Selected Questions and Responses**

**Question 3**

**The Trustees seek views on their proposal to change section 2 as follows:**

The objectives of the ~~IASC~~ IFRS Foundation are:

- (a) to develop, in the public interest, a single set of high quality, understandable, ~~and enforceable~~ and globally accepted accounting financial reporting standards that require high quality, transparent and comparable information in financial statements and other financial reporting to help participants in the world’s capital markets and other users make economic decisions;
- (b) to promote the use and rigorous application of those standards;
- (c) in fulfilling the objectives associated with (a) and (b), to take account of emerging economies and, as appropriate, the special needs of small and medium-size entities ~~and emerging economies~~; and
- (d) to bring about convergence of national accounting standards and ~~International Accounting Standards and~~ International Financial Reporting Standards (IFRSs, being the standards and interpretations issued by the IFRS Board) to high quality solutions.

**Do you support the changes aimed at clarity?**

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<sup>1</sup> IASC Foundation, Part 2 of the Constitution Review, Proposals for Enhanced Public Accountability 1-52 (Sept. 2009), <http://www.iasb.org/NR/rdonlyres/4A1F6AB1-B0A6-456C-8457-6B0EEB8524B8/0/ConstitutionalreviewpartII.pdf>.

### **Question 3 Response**

No. The Council does not support the changes aimed at clarity.

The objectives of the IASC Foundation as currently set forth in section 2, with or without the proposed changes aimed at clarity, are unacceptable because they fail to acknowledge that the primary objective of accounting and accounting standard setting is to satisfy investors' information needs.<sup>2</sup>

As background, the Council's membership approved policy on "Independence of Accounting and Auditing Standard Setters" ("Policy") states in relevant part:

The Council . . . does not support replacing U.S. accounting . . . standard setters with international . . . standard setters unless and until all of the following steps have been achieved:

. . . .

- The international standard setter has demonstrated a clear recognition that investors are the key customer of audited financial reports and, therefore, the primary role of audited financial reports should be to satisfy in a timely manner investors' information needs. This includes having significant, prominent and adequately balanced representation from qualified investors on the standard setter's staff, standard-setting board, oversight board and outside monitoring or advisory groups; . . . .<sup>3</sup>

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<sup>2</sup> Letter from Jeff Mahoney, General Counsel, Council of Institutional Investors, to Tamara Oyre, Assistant Corporate Secretary, IASC Foundation 4 (Mar. 26, 2009), [http://www.cii.org/UserFiles/file/resource%20center/correspondence/2009/March%2026%202009%20Letter%20to%20Oyre%20\(final%20with%20letterhead\).pdf](http://www.cii.org/UserFiles/file/resource%20center/correspondence/2009/March%2026%202009%20Letter%20to%20Oyre%20(final%20with%20letterhead).pdf) ("As indicated in our general comments, and consistent with our policy and the conclusions of the Final Report of the Advisory Committee on Improvements to Financial Reporting to the United States Securities and Exchange Commission, we believe that the primary objectives of the IASCF and the IASB, as described in the Constitution, should be revised to explicitly focus their responsibilities on serving the primary consumers of financial reports") [hereinafter March Letter].

<sup>3</sup> Council of Institutional Investors, **Independence of Accounting and Auditing Standard Setters 1** (Updated Oct. 7, 2008), <http://www.cii.org/UserFiles/file/council%20policies/Policies%20on%20Accounting%20and%20Auditing%205-7-09.pdf>.

We note that our Policy is generally consistent with the following conclusions and recommendation of the United States Securities and Exchange Commission's Advisory Committee on Improvements to Financial Reporting:

Investor perspectives are critical to effective standards-setting, as investors are the primary consumers of financial reports. Only when investor perspectives are properly considered by all parties does financial reporting meet the needs of those it is primarily intended to serve. Therefore, investor perspectives should be given pre-eminence by all parties involved in standard setting.<sup>4</sup>

We also note that our Policy is generally consistent with the view of the IASC Foundation Monitoring Board ("Monitoring Board").<sup>5</sup> In a September 22, 2009 statement the Monitoring Board described the principles underpinning accounting standards and standard setting to include the following:

We view the *primary objective* of financial reporting as being to provide information on an entity's financial performance in a way that is useful for decision-making for present and potential *investors*.<sup>6</sup>

As indicated in our March 26, 2009 letter in response to the IASC Foundation's December 2008 discussion document ("March Letter"),<sup>7</sup> and in my opening statement at the IASC Foundation's Constitution Review roundtables on October 6<sup>th</sup> in New York City, the Council believes, consistent with our Policy, that the objectives of the IASC Foundation should be revised to more clearly focus on serving the information needs of investors. In our view, the existing language of section 2, with or without the proposed changes, muddles the objectives of accounting standard setting by describing financial reporting standards in terms of "help[ing] participants" and by appearing to pander to the interests of "emerging economies" and "small and medium-sized entities."

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<sup>4</sup> Final Report of the Advisory Committee on Improvements to Financial Reporting to the United States Securities and Exchange Commission 57 (Aug. 1, 2008), <http://www.sec.gov/about/offices/oca/acifr/acifr-finalreport.pdf> [hereinafter CIFR].

<sup>5</sup> IASC Foundation Monitoring Board, Statement of the Monitoring Board for the International Accounting Standards Committee Foundation on Principles for Accounting Standards and Standard Setting 1-4 (Sept. 22, 2009), <http://www.fsa.go.jp/inter/etc/20091002/02.pdf>.

<sup>6</sup> *Id.* at 2 (emphasis added).

<sup>7</sup> March Letter, *supra* note 2, at 4-5.

Generally consistent with the very modest proposed changes we offered in our March Letter,<sup>8</sup> we again respectfully request that the objectives contained in section 2 of the Constitution be revised as follows to focus on investors' needs—the primary consumer of financial reports:

The objectives of the ~~IASC~~ IFRS Foundation are:

- (a) to develop, in the public interest, a single set of high quality, understandable, and enforceable and globally accepted accounting—financial reporting standards that require high quality, transparent and comparable information in financial statements and other financial reporting to help investors in the world's capital markets and other users make economic decisions;
- (b) to promote the use and rigorous application of those standards;
- (c) in fulfilling the objectives associated with (a) and (b), to take account of investors in emerging economies and, as appropriate, the special needs of investors in small and medium-size entities ~~and emerging economies~~; and
- (d) to bring about converge of national of national accounting standards and ~~International Accounting Standards and~~ International Financial Reporting Standards (IFRSs, being the standards and interpretations issued by the IFRS Board) to high quality solutions that satisfy investors' information needs.

Deleted: participants

#### **Question 4**

**The Trustees seek views on the proposal to amend section 3 of the Constitution as follows:**

The governance of the ~~IASC~~ IFRS Foundation shall primarily rest with the Trustees and such other governing organs as may be appointed by the Trustees in accordance with the provisions of this Constitution. A Monitoring Board (described further in sections 18-23) shall provide a formal link between the Trustees and public authorities. The Trustees shall use their best endeavours to ensure that the requirements of this Constitution are observed; however, they ~~are empowered to~~ may make minor variations in the interest of feasibility of operation if such variations are agreed by 75 per cent of ~~all~~ the Trustees.

**Do you support this clarifying amendment?**

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<sup>8</sup> *Id.* at 5.

#### **Question 4 Response**

No. The Council does not support the clarifying amendment to section 3 of the Constitution. The insertion of the word “primarily” and the reference to the “Monitoring Board” indicates that the governance of the IASC Foundation is shared between the Trustees of the IASC Foundation and the Monitoring Board. We disagree with such an arrangement. We believe the Monitoring Board’s responsibilities and activities should be narrowly confined to the education of and communication with representatives of public authorities about the benefits of independent private sector accounting standard setting that meet the needs of investors.<sup>9</sup>

As background, the Council’s Policy, as described in our response to Question 3, provides that that any formal “oversight board and outside monitoring group or advisory groups” of the international standard setter should include “significant, prominent and adequately balanced representation from qualified investors . . . .”<sup>10</sup> Moreover, our Policy includes the following additional criteria relevant to the responsibilities of the Monitoring Board:

The international standard setter has a structure and process that adequately protects the standard setter’s technical decisions and judgments (including the timing of the implementation of standards) from being overridden by government bodies.<sup>11</sup>

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<sup>9</sup> See Letter from Jeff Mahoney, General Counsel, Council of Institutional Investors, to Florence E. Harmon, Acting Secretary, Securities and Exchange Commission 11 (Attachment Apr. 20, 2009), [http://www.cii.org/UserFiles/file/resource%20center/correspondence/2009/Attachment%20to%20Letter%20on%20Proposed%20Roadmap%20\(final\).pdf](http://www.cii.org/UserFiles/file/resource%20center/correspondence/2009/Attachment%20to%20Letter%20on%20Proposed%20Roadmap%20(final).pdf) (“We note that, despite our suggestions to narrowly define the duties of the Monitoring Group to ‘focus primarily on educating and communicating with representatives of public authorities around the world about the benefits of independent private sector standard setting,’ the list of duties established for the Monitoring Group fails to include *any* responsibility for protecting and defending the independence of the IASB” (footnotes omitted)) [hereinafter April Letter]; see also Letter from Jeff Mahoney, General Counsel, Council of Institutional Investors, to Ms. Tamara Oyre, Assistant Corporate Secretary, IASC Foundation 6 (Sept. 25, 2008), [http://www.cii.org/UserFiles/file/resource%20center/correspondence/2008/September%20to%20Oyre%20\(final\)\(1\).pdf](http://www.cii.org/UserFiles/file/resource%20center/correspondence/2008/September%20to%20Oyre%20(final)(1).pdf) (“More specifically, in our view, the mandate of the Monitoring Group should focus primarily on educating and communicating with representatives of public authorities around the world about the benefits of independent private sector accounting standard setting”) [hereinafter September Letter].

<sup>10</sup> Council of Institutional Investors, *supra* note 3, at 1.

<sup>11</sup> *Id.* at 2.

We note that despite our previous suggestions, and those of other commentators, sections 18-23 of the Constitution were written in such a manner that not a single qualified investor is permitted to be on the Monitoring Board or even to serve as an observer.<sup>12</sup> Thus, it is highly unlikely that the Monitoring Board will remain sufficiently motivated and effective in protecting the independence of the international standard setter,<sup>13</sup> particularly since its listed duties fail to expressly provide for that function.<sup>14</sup> More likely, over time the Monitoring Board will simply become another organization that attempts to unduly influence the international accounting standard setting process in pursuit of short-term political interests that, more often than not, are detrimental to the short and long-term interests of investors.<sup>15</sup>

In conclusion, we can not support the clarifying amendment to section 3 of the Constitution because it reaffirms a role for the Monitoring Board that is inconsistent with our Policy. In our view, sections 18-23 of the Constitution describing the “Monitoring Board” should be substantially revised. Those revisions should include a rewrite of section 21 to require, consistent with our Policy, that the Monitoring Board include significant representation from qualified investors.

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<sup>12</sup> IASC Foundation, *supra* note 1, at 37 (The Constitution provides that “the chairman of the Basel Committee on Banking Supervision” shall serve as “an observer” to the Monitoring Board).

<sup>13</sup> We acknowledge that the Monitoring Board’s September 22, 2009 statement on “Principles for Accounting Standards and Standard Setting” was generally consistent with the narrowly defined role we have advocated for the Monitoring Board.

<sup>14</sup> April Letter, *supra* note 9, at 11.

<sup>15</sup> In commenting on the difficult political pressures facing the International Accounting Standards Board (“IASB”), Financial Accounting Standards Board (“FASB” or “Board”) Chairman Robert H. Herz recently noted that “[w]hile FASB has come under pressure domestically from financial institutions and other groups, IASB has encountered ‘even greater challenges’ from government bodies ‘that do not seem to agree with, or accept that financial reporting should be geared toward investors in the capital markets and that accounting standards should be established in an independent, neutral and thorough fashion . . . .” Steven Marcy, *Herz Says Political Pressure Threatens Financial Reporting, Regulatory Success*, 209 BNA, Inc. Daily Rep. Executives G-3 (Nov. 2, 2009) (on file with Council). Chairman Herz’s comments confirm predictions made by other prominent accounting experts. See, e.g., Professor Donna L. Street, Mahrt Chair in Accounting, University of Dayton, *International Convergence of Accounting Standards: What Investors Need to Know* 28 (Oct. 2, 2007), [http://www.cii.org/UserFiles/file/resource%20center/key%20governance%20issues/international%20convergence/International%2520Convergence%2520White%2520Paper%2520\(Final\)%252011-14-07.pdf](http://www.cii.org/UserFiles/file/resource%20center/key%20governance%20issues/international%20convergence/International%2520Convergence%2520White%2520Paper%2520(Final)%252011-14-07.pdf) (Noting that “with lobbying from ‘multiple governments with differing priorities and multiple business communications with various interests to protect’ pressures on the IASB will eventually exceed those ever faced by any national standard setter and make development of ‘principles-based’ standards a massive challenge”).

### **Question 5**

**The Trustees seek views on the proposal to amend section 6 of the Constitution as follows to include one Trustee from each of Africa and South America:**

All Trustees shall be required to show a firm commitment to the IFRS ~~IASC~~ Foundation and the IFRS Board ~~IASB~~ as a high quality global standard-setter, to be financially knowledgeable, and to have an ability to meet the time commitment. Each Trustee shall have an understanding of, and be sensitive to, the challenges associated with the adoption and application of high quality global ~~accounting~~ financial reporting standards developed for use in the world's capital markets and by other users. The mix of Trustees shall broadly reflect the world's capital markets and diversity of geographical and professional backgrounds. The Trustees shall be required to commit themselves formally to acting in the public interest in all matters. In order to ensure a broad international basis, there shall be:

- (a) six Trustees appointed from the Asia/Oceania region;
- (b) six Trustees appointed from Europe;
- (c) six Trustees appointed from North America; ~~and~~
- (d) one Trustee appointed from Africa;
- (e) one Trustee appointed from South America; and
- (f)(~~d~~) two ~~four~~ Trustees appointed from any area, subject to maintaining ~~establishing~~ overall geographical balance.

**Do you support the specific recognition of Africa and South America?**

### **Question 5 Response**

No. We do not support the specific recognition of Africa, South America or any other geographic region. The arbitrary geographical distribution system described in Section 6 for appointing IASC Foundation Trustees may create representative "trustees" and, more importantly, detracts from what are far more critical selection criteria.<sup>16</sup>

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<sup>16</sup> March Letter, *supra* note 2, at 7 ("Consistent with the views we expressed in the September Letter regarding proposed composition of the IASB, we do not support the fixed geographical distribution system for appointing IASCF Trustees" (footnote omitted)).

The Council's Policy, as described in response to Questions 3 and 4, contemplates at least two criteria for selection of Trustees to an oversight board of an independent private sector international accounting standard setter.<sup>17</sup> First, that the Trustees as a whole include significant representation from qualified investors—the primary consumers of financial reports.<sup>18</sup> Second, that each individual Trustee candidate be required to show a firm commitment and the skill set necessary to effectively support and protect the independence of the accounting standard setting process to ensure, to the extent possible, that the process meets the needs of those it is primarily intended to serve.<sup>19</sup>

Finally, as indicated, we are concerned that the geographical distribution system established in section 6 of the Constitution may inadvertently create “representative” Trustees.<sup>20</sup> Trustees selected in that manner might understandably perceive their roles as advocates for the parochial interests of the region they represent, rather than the broader interests of the consumers of financial reports.<sup>21</sup>

For all of the above reasons, we believe section 6 of the Constitution should be substantially revised to place greater emphasis on the criteria for Trustees contemplated by our Policy, and to place lesser emphasis on the arbitrary geographical distribution system that predominates the existing requirements and proposed amendment.

## **Question 8**

### **Section 28 would be amended as follows:**

The ~~IASB~~ IFRS Board will, in consultation with the Trustees, be expected to establish and maintain liaison with national standard-setters and other official bodies ~~concerned~~ with an interest in standard-setting in order to assist in the development of IFRSs and to promote the convergence of national accounting standards and ~~International Accounting Standards and International Financial Reporting Standards~~ IFRSs.

**Do you support the changes aimed at encouraging liaison with a broad range of official organizations with an interest in accounting standard-setting?**

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<sup>17</sup> See Council of Institutional Investors, *supra* note 3, at 1-2.

<sup>18</sup> March Letter, *supra* note 2, at 7 (“More specifically, and consistent with our policy, the Trustees should include significant representation from the investor community”).

<sup>19</sup> *Id.* (“Trustee candidates should also be required to demonstrate a commitment to actively supporting and defending the independence of the IASB”).

<sup>20</sup> *Id.* (“Finally, we are concerned that the geographical distribution system may also create ‘representative’ Trustees composed of individuals that are more likely to perceive their roles as promoters of the short-term and potentially narrow public interests of the region they represent, rather than promoters of improving financial accounting and reporting that best serves the needs of investors” (footnote omitted)).

<sup>21</sup> *Id.*

### **Question 8 Response**

No. The Council does not support the changes to section 28. Although there clearly is merit in the International Accounting Standards Board (“IASB”) consulting a broad range of bodies or organizations with an interest in standard setting, any further expansion of the IASB’s liaison activities should explicitly focus on establishing greater liaison with bodies or organizations that represent investors—the primary consumers of financial reports.

As indicated in response to Question 3, our Policy provides that the accounting standard setter “demonstrate a clear recognition that investors are the key customer of audited financial reports. . . .”<sup>22</sup> Our Policy also includes the following provision emphasizing the need for the standard setter to actively solicit and consider investor views:

The international standard setter has a thorough public due process that includes solicitation of investor input on proposals and careful consideration of investor views before issuing proposals or final standards; . . . .<sup>23</sup>

Those provisions of our Policy reflect the widely held view that investor perspectives are (1) critical to the development of high quality accounting standards; (2) underrepresented in the accounting standard setting process.<sup>24</sup> Consistent with our Policy, we believe that section 28 should be amended to include explicit language stating that the expansion of the IASB’s liaison efforts should include liaison with organizations representing investors. Such an amendment would supplement recent efforts by the IASC Foundation to enhance investor input, including the recent selection of two board members from the investor community.

### **Question 11**

**The Trustees seek views on the proposal to insert in section 37 (to become section 38) of the Constitution an additional subsection as follows to allow the Trustees, in exceptional circumstances, to authorize a shorter due process period. Authority would be given only after the IASB had made a formal request. The due process periods could be reduced but never dispensed with completely.**

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<sup>22</sup> Council of Institutional Investors, *supra* note 3, at 1.

<sup>23</sup> *Id.*

<sup>24</sup> CIFR, *supra* note 4, at 58 (“Consideration of investor perspectives throughout standards-setting is critical”).

The ~~IASB~~ IFRS Board shall:

- (a) ...
- (b) ...
- (c) in exceptional circumstances, and only after formally requesting and receiving prior approval from the Trustees, reduce, but not eliminate, the period of public comment on an exposure draft below that described as the minimum in the Due Process Handbook.

### **Question 11 Response**

We do not support the proposed language of section 37(c) as written. In light of the Trustees' October 2008 decision to suspend all public due process procedures in response to pressure from the financial services lobby and European politicians,<sup>25</sup> we believe further protections to maintaining a thorough public due process should be embedded in the Constitution.

As indicated in our responses to Questions 3 and 8, the Council's Policy provides that the accounting standard setter should demonstrate "a clear recognition that investors are the key customer" of financial reports and that the "standard setter have a thorough due process that includes solicitation of investor input and careful consideration of investor views . . . ."<sup>26</sup> Consistent with our Policy, we believe that the acceleration of public due process in exceptional circumstances should be explicitly limited to those circumstances in which the proposed standard, from the perspective of most investors, is an improvement to financial accounting and reporting.<sup>27</sup>

As a practical matter, section 37(c) might be revised to require prior approval by a majority of the investor representatives on the Standards Advisory Committee ("SAC") before the Trustees could authorize a reduction in the public comment period for an exposure draft. Such a revision would be a simple solution to providing some needed assurance that any future fast-track procedures would only occur when supported by investors—the primary consumers of financial reports.

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<sup>25</sup> March Letter, *supra* note 2, at 3.

<sup>26</sup> Council of Institutional Investors, *supra* note 3, at 1.

<sup>27</sup> *Cf.* March Letter, *supra* note 2, at 10 ("Unlike the October decision . . . any 'fast track' procedure should *never* be permitted . . . to be used to promulgate a standard that, from the perspective of most investors, is clearly not an improvement to financial accounting and reporting").

## **Question 12**

**The Trustees seek views on the proposal to amend section 37(d) (to become section 38) of the Constitution as follows to expressly provide that the IASB must consult the Trustees and the SAC when developing its technical agenda.**

The ~~IASB~~ IFRS Board shall:

~~(e)~~(d) have full discretion in developing and pursuing the technical agenda of the ~~IASB IFRS Board~~, after consulting the Trustees (consistently with section 15(c) and the SAC (consistently with section 44(a)), and over project assignments on technical matters: in organising the conduct of its work, the ~~IASB IFRS Board~~ may outsource detailed research or other work to national standard-setters or other organizations;

## **Questions 12 Response**

The Council does not support the proposal to amend section 37(d) of the Constitution to expressly provide that the IASB must consult the Trustees when developing and pursuing its technical agenda. An independent accounting standard setter must have the ability to develop and pursue its own agenda. *Requiring* that the IASB consult with the Trustees (who clearly are not independent) about its agenda weakens the independence and, thus, the legitimacy of the standard setting process.

The Council has consistently supported the view that the responsibility to promulgate accounting standards should reside with independent private sector organizations.<sup>28</sup> Moreover, we believe agenda setting is a critical part of accounting standard setting.<sup>29</sup> Thus, we do not support amending the Constitution to require the IASB to consult with the IASC Foundation in developing and pursuing its technical agenda.

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<sup>28</sup> Council of Institutional Investors, *supra* note 3, at 1.

<sup>29</sup> *Cf.* Letter from Jeff Mahoney, General Counsel, Council of Institutional Investors, to Ms. Teresa S. Polley, Chief Operating Officer, Financial Accounting Foundation 4 (Feb. 11, 2008), <http://www.fasb.org/cs/BlobServer?blobcol=urldata&blobtable=MungoBlobs&blobkey=id&blobwhere=1175818414732&blobheader=application%2Fpdf> (Opposing a proposal to provide the Chair of the FASB, rather than the entire Board, with the decision-making authority to set the FASB technical agenda because of concerns that it might increase the potential risk that the Board's independence might be impaired) [hereinafter February Letter].

As explained in our March Letter:

[T]he October 2008 decision has severely shaken investor confidence in the IASCF and the IASB. That confidence will not be regained by providing the Trustees, particularly the existing Trustees, with a direct or indirect role in the IASB's agenda setting process.<sup>30</sup>

### **Question 13**

**Trustees seek views on the proposal to make no amendment to sections 44 and 45 (renumbered as 45 and 46), which are the provisions relating to the SAC, at this time.**

### **Question 13 Response**

The Council believes that the provisions of the Constitution relating to the SAC should be amended to require, consistent with Council Policy, that the SAC include significant representation from qualified investors.<sup>31</sup>

As indicated in our response to Question 3, the Council's Policy provides that an accounting standard setter demonstrate "a clear recognition that investors are the key customer" of financial reports, including having "significant" investor representation on "advisory groups."<sup>32</sup> It is our understanding that of the forty-one organizations currently represented on the SAC there are no more than eight (including the Council) that could be considered representatives of investors.<sup>33</sup>

We do not believe that having less than twenty percent of the SAC comprised of representatives from the primary consumers of financial reports is sufficient. We respectfully recommend, consistent with the comments in our March Letter, that the Constitution be amended to eliminate this imbalance by explicitly requiring that the SAC membership include significant representation from organizations that represent investors.<sup>34</sup>

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<sup>30</sup> March Letter, *supra* note 2, at 8.

<sup>31</sup> *Cf. id.* at 10 ("Consistent with our policy and general comments, we encourage the IASCF to correct this imbalance as soon as practicable"); *cf. also* February Letter, *supra* note 29, at 3 ("As the key customers of financial accounting and reporting, qualified investors should be offered a much greater role in the boards and advisory groups of those organizations that establish accounting standards").

<sup>32</sup> Council of Institutional Investors, *supra* note 3, at 1.

<sup>33</sup> International Accounting Standards Board, Membership of the Standards Advisory Council 1-4 (last visited Nov. 29, 2009), <http://www.iasb.org/NR/rdonlyres/109E2E55-C803-48FD-979F-8FB313E1A3D5/0/forpostingmembershipoftheSACJuly2009.pdf> (Includes a listing of the current members of the Standards Advisory Council and the organizations that they represent).

<sup>34</sup> March Letter, *supra* note 2, at 10.