

June 2018

IFRS® Foundation
Exposure Draft

Amending the Terms of Appointment for the IFRS Foundation Trustee Chair and Vice-Chairs

Comments to be received by 17 September 2018



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IFRS Foundation Trustee Chair and Vice-Chairs**

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CONTENTS

IFRS® FOUNDATION EXPOSURE DRAFT: AMENDING THE TERMS OF APPOINTMENT FOR THE IFRS FOUNDATION TRUSTEE CHAIR AND VICE-CHAIRS

Introduction and invitation to comment	4
Proposal 1: Extending the maximum length of service of the Trustee Chair and Vice-Chairs—Proposed amendments to Section 10 of the <i>Constitution</i>	5
Proposal 2: Consequential amendment to Section 10—External appointments	7
Proposal 3: Clarifying amendment to Section 8 of the <i>Constitution</i> —Trustee reappointments	9

IFRS® FOUNDATION EXPOSURE DRAFT—AMENDING THE TERMS OF APPOINTMENT FOR THE IFRS FOUNDATION TRUSTEE CHAIR AND VICE-CHAIRS

Introduction and invitation to comment

- 1 The Trustees invite comments on proposals to amend Sections 8 and 10 of the IFRS Foundation *Constitution* to:
 - (a) extend the maximum total length of service of the Trustee Chair and the Vice-Chairs;
 - (b) allow for sufficient flexibility to appoint the Trustee Chair from amongst the Trustee number or to appoint from outside the Trustee body; and
 - (c) to clarify terms governing Trustee reappointments.

If approved, the changes would allow the Foundation to benefit from continuity in leadership and the valuable experience gained whilst in office. It would also allow for greater flexibility in appointing the Chair of the Trustees. The proposed amendments are set out in detail below.
- 2 The Trustees propose that the amendments, if approved, should be effective immediately after publication of the amended *Constitution*, expected in December 2018.
- 3 This Exposure Draft contains:
 - (a) an introduction to, and explanation of, each proposed change to the *Constitution*.
 - (b) a table setting out the text of Sections 8 and 10 as they currently stand, alongside versions marked up with the proposed amendments. Text that would be deleted is shown struck through and proposed new text is shown underlined and in bold.
- 4 The deadline for receipt of written comments on the proposals and the questions set out in this paper is **17 September 2018**.

Context of the review and timetable

- 5 The Trustees are not asking separate questions about each proposal, but are seeking views from stakeholders on the proposed amendments to the *Constitution* as a unit. The Trustees welcome explanations from stakeholders who do not support an amendment and, where appropriate, would also welcome alternative proposals.
- 6 The Trustees acknowledge that the proposed comment period is shorter than the usual 120 days. Given the limited scope of the changes cited in the proposed Exposure Draft, the Trustees do not believe this matter warrants a 120-day consultation. The Trustees have therefore approved a 90-day consultation period.
- 7 At their meeting in October 2018, the Trustees will review stakeholders' feedback and hope to approve a final feedback statement together with the proposed amendments to the *Constitution*. The amendments to the *Constitution* would be ready for publication in December 2018. The amended provisions would be immediately effective from that date.

How to comment

- 8 Comments need to be received by **17 September 2018**. They should be submitted by email to commentletters@ifrs.org or via our ‘Open for comment’ page at <https://www.ifrs.org/projects/open-for-comment/>.

Comments will be on the public record and posted on our website at www.ifrs.org unless the respondent requests confidentiality. Such requests will not normally be granted unless supported by good reason, for example, commercial confidence. Please see our website for details on this and how we use your personal data.

Proposal 1: Extending the maximum length of service of the Trustee Chair and Vice-Chairs—Proposed amendments to Section 10 of the *Constitution*

Background

- 9 The Trustees are of the view that the proposal to extend the total length of service of the Trustee Chair and Vice-Chairs, as set out below, would strike an appropriate balance between the need to provide continuity of leadership and valuable experience gained whilst in office, but also allow for the regular introduction of fresh ideas. This is elaborated in paragraph 17 below.
- 10 After the Foundation’s 2008–10 constitutional review, the Trustees amended Section 10 of the *Constitution*:
- (a) to allow for the appointment of up to two Trustee Vice-Chairs to aid the Chair in his or her official duties, including geographical outreach and fundraising.¹ The roles of the Chair and Vice-Chairs were clarified to remove any possible ambiguity. Appointments were to be made subject to Monitoring Board approval.
 - (b) to remove gender-specific wording (Chairman), and replace it with gender-neutral wording (Chair).
 - (c) to introduce a term limit for the Chair and Vice-Chairs of nine years in total length of service as a Trustee. The Trustees introduced this change to remove an ambiguity highlighted by an external stakeholder during the consultation on Section 10. The Trustees agreed that, if left unchanged, Section 10 could have allowed an internally appointed Chair or Vice-Chair to serve for as long as 18 years (six years as a Trustee, six as a Vice-Chair, and six as the Chair), which was deemed inappropriate.
- 11 Section 10 of the *Constitution* currently reads as follows:
- The Chair of the Trustees, and up to two Vice-Chairs, shall be appointed by the Trustees from among their own number, subject to the approval of the Monitoring Board. The role of a Vice-Chair(s) shall be to chair meetings of the Trustees in the absence of the Chair or to represent the Chair in external contacts. With the agreement of the Trustees, and regardless of prior service as a Trustee, the appointee may serve as the Chair or a Vice-Chair for a term of three years, renewable once, from the date of appointment as Chair or Vice-Chair, but may not exceed nine years in total length of service as a Trustee. The appointment of a Chair and Vice-Chair(s) should be made with regard to maintaining a geographical balance.

¹ Appointments are made subject to geographical balance to eliminate the possibility that the Chair and the Vice-Chair could come from the same region.

Proposal to differentiate a Chair appointed internally from one recruited externally

- 12 The Trustees propose to amend Section 10 of the *Constitution* to differentiate a Chair who has served as a Trustee or as a Vice-Chair (an internally appointed Chair) from one who has not served as a Trustee or as a Vice-Chair (an externally recruited Chair).
- 13 Under Section 10 as it currently stands, an internally appointed Chair can serve up to a maximum of nine years. However, an externally recruited Chair can only serve two three-year terms, ie up to a maximum of six years.
- 14 The proposed amendment to Section 10 would ensure that in either case, the appointee may serve a maximum term of nine years; however, any term served as a Trustee or as a Vice-Chair by an internally appointed Chair, would be taken into account when determining the total maximum length of service.
- 15 Section 10 would therefore be amended to provide that;
- (a) an internally appointed Chair or Vice-Chair(s) may serve a three-year term, renewable *twice*, up to a maximum of nine years in total length of service, taking into account the term already served as a Trustee; while
 - (b) the Chair that is appointed externally would be appointed for a three-year term, renewable *twice*, up to a maximum of nine years in total length of service.

Extending the maximum total length of service of the Trustee Chair and Vice-Chairs—factors to bear in mind

- 16 The Trustees considered the following factors when deciding whether to make the proposed amendments:
- *Corporate governance*
- 17 As noted in paragraph 9, the Trustees considered the need to find an appropriate balance in the length of term of its Chair and Vice-Chairs. A maximum term of nine years was considered to be in keeping with good corporate governance, particularly because it had been approved by stakeholders during the 2008-2010 constitutional review. Trustees took the view that a total term of nine years, divided between three three-year terms would allow the Foundation to benefit from depth of experience and historical knowledge, while the triennial reappointment process would allow for a regular effectiveness review, help the Trustee maintain objectivity and ensure the opportunity for fresh ideas.
- *Geographic diversity*
- 18 The Trustees originally extended the permitted total length of service of both the Chair and Vice-Chairs to a maximum of nine years to derive value from the experience and understanding of the Foundation's operations that such officers could thereby develop, balanced by the need for healthy rotation. Rotation is particularly important to the Foundation, not only to ensure good corporate governance, but also to facilitate greater geographical diversity, as required by the *Constitution*.

The proposal's benefits and disadvantage

- 19 The Trustees considered the following benefits and potential disadvantage of the proposed extension to the Trustee Chair and Vice-Chairs' maximum total length of service:

Benefits

- The Trustees took the view that the risk of the Chair or Vice-Chairs becoming insufficiently objective or independent would not arise, because, in both instances, an appointee would serve a maximum term of nine years.
- The Trustees found that a term of nine years would provide the Foundation with the benefits of continuity, such as enhanced appreciation and understanding of the Foundation and its operations, and an increased ability to identify opportunities and assess risks.
- The Trustees also took the view that the proposed amendments would maintain the geographical diversity and balance of the Trustees since Section 10, as amended, would not extend the Chair and Vice-Chairs' maximum length of service beyond that which is currently set by the Foundation's *Constitution*. The Trustees also noted that the Chair and two Vice-Chairs usually represent different major geographical regions of the world, thus further promoting the geographical balance of the Trustees.

Potential disadvantage

- The Trustees noted that, despite the proposed differentiation between an internally appointed and an externally recruited Chair, the maximum total length of service of both would be similarly limited.

Proposal 2: Consequential amendment to Section 10—External appointments

- 20 At present, Section 10 of the *Constitution* provides that the Chair of the Trustees, and up to two Vice-Chairs, *shall* be appointed by the Trustees 'from among their own number'. However, both the present Chair and his predecessor were recruited externally through a public recruitment process, rather than by being appointed from among the Trustees². Only the Vice-Chairs were appointed from among the Trustees. Where no internal candidate was available, recruiting the Chair externally was deemed the fairest way to consider the best candidates. Such external recruitment ensures the Trustees have two methods for appointing a Chair of the highest calibre, and helps to ensure that the Chair is chosen by merit, rather than by allegiance to a particular geographical region.
- 21 The proposed amendment to Section 10 of the *Constitution* would therefore clarify that a Chair may be recruited internally or externally, as the case may be, reflecting current practice.

2 There is an implied power by virtue of Section 3 of the *Constitution*, which allows the Trustees to make minor variations in the interests of feasibility of operations if so agreed by 75% of the Trustees. The current Chair and his predecessor were both recruited externally with unanimous Trustee approval.

22 The Trustees recommend that Section 10 of the Foundation’s *Constitution* be amended as follows:

Section 10—shown as it currently stands	Section 10—shown amended as proposed
<p>10 The Chair of the Trustees, and up to two Vice-Chairs, shall be appointed by the Trustees from among their own number, subject to the approval of the Monitoring Board. The role of a Vice-Chair(s) shall be to chair meetings of the Trustees in the absence of the Chair or to represent the Chair in external contacts. With the agreement of the Trustees, and regardless of prior service as a Trustee, the appointee may serve as the Chair or a Vice-Chair for a term of three years, renewable once, from the date of appointment as Chair or Vice-Chair, but may not exceed nine years in total length of service as a Trustee. The appointment of a Chair and Vice-Chair(s) should be made with regard to maintaining a geographical balance.</p>	<p>10 The Chair, and up to two Vice-Chairs, of the Trustees and up to two Vice-Chairs, shall be appointed by the Trustees as follows, from among their own number, subject to the approval of the Monitoring Board:</p> <p>(a) <u>The Chair</u> of the Trustees, and up to two Vice-Chairs, shall may be appointed by the Trustees from among theirthe Trustees own number, or recruited externally. The role of a Vice-Chair(s) shall be to chair meetings of the Trustees in the absence of the Chair or to represent the Chair in external contacts. With the agreement of the Trustees, and regardless of prior service as a Trustee, a Chair appointed from among his or her own number the appointee may serve as the Chair or a Vice-Chair for a term of three years, renewable once twice, from the date of appointment as Chair, or Vice-Chair, but may not exceed nine years in total length of service as a Trustee. <u>If the Chair is appointed through an external recruitment process, he or she may serve as Chair for a term of three years, renewable twice, up to a maximum of nine years in total length of service as Chair.</u> The appointment of a Chair and Vice-Chair(s) should be made with regard to maintaining a geographical balance.</p> <p>(b) <u>Vice-Chairs shall only be appointed by the Trustees from among their own number. Their</u> The role of a Vice-Chair(s) shall be to chair meetings of the Trustees in the absence of the Chair or to represent the Chair in external contacts. With the agreement of the Trustees, and regardless of prior service as a Trustee, a Vice-Chair the appointee may serve as the Chair or a Vice-Chair for a term of three years, renewable twiceonce, from the date of appointment as Chair or Vice-Chair, but may not exceed nine years in total length of service as a Trustee. The appointment of a Chair and Vice-Chair(s) should be made with regard to maintaining a geographical balance.</p>

- 23 The proposed change clarifies that Vice-Chairs may only be recruited from among the Trustees, and may likewise serve a three-year term, renewable *twice*, up to a maximum of nine years in total length of service as a Trustee.
- 24 Chairs, however, may be recruited externally or internally, as the case may be, and both external and internal appointees may serve a three-year term, renewable *twice*, up to a maximum of nine years in total length of service. Internally recruited Chairs would need to account for their term as Trustee, or Vice-Chair, in determining their total length of service.

**Proposal 3: Clarifying amendment to Section 8 of the *Constitution*—
Trustee reappointments**

- 25 At present, Section 8 of the *Constitution* is silent on the number of years that should elapse before a Trustee who has completed a full term of office may be reappointed. While no former Trustee has ever applied for reappointment after stepping down, it would be advisable for the *Constitution* to provide expressly for a reasonable rotation and an appropriate break between such reappointments, should the matter ever arise. The Trustees propose requiring a six-year break and a limit of just *one* reappointment.
- 26 The Trustees, therefore, recommend that Section 8 of the Foundation’s *Constitution* be amended as follows:

Section 8—shown as it currently stands	Section 8—shown amended as proposed
Trustees shall normally be appointed for a term of three years, renewable once.	Trustees shall normally be appointed for a term of three years, renewable once. <u>A Trustee may be reappointed after a lapse of six years, but such a reappointment shall be limited to a term of three years, renewable only once. Thereafter, no further reappointment shall be permitted.</u>