Meeting summary of the UKEB's Rate-regulated Activities Technical Advisory Group ad hoc meeting held on 13 May 2024 from 11h30 until 13h00

Item No.	Agenda Item
1	Welcome and apologies
2	Rate-regulated Activities: Top-down approach analysis
3	AOB – Forthcoming preparer survey on IFRS 18 *Presentation and Disclosure in the Financial Statements*

Present (all attending virtually)	
Name	**Designation**
Robin Cohen	UKEB member (Acting Chair)
Sandra Thompson	UKEB member
Seema Jamil-O'Neill	Technical Director, UK Endorsement Board
Claire Howells	RRA TAG member
Dean Lockhart	RRA TAG member
Sam Vaughan	RRA TAG member
Stefanie Voelz	RRA TAG member
Suzanne Gallagher	RRA TAG member
Kelly Martin	RRA TAG member
Will Gardner	RRA TAG member

Relevant UKEB Secretariat team members were also present.

UKEB
UK Endorsement Board

Welcome and apologies

1. The Acting Chair welcomed the members and conveyed the apologies of those members who were unable to attend and that the meeting is quorate.

2. Apologies were received from Stuart Wills, Simon Davie and James Sawyer.

Background

3. An ad hoc virtual meeting of the UKEB Rate-regulated Activities Technical Advisory Group (RRA TAG) was held an on 13 May 2024. The main aim of the meeting was to discuss the UKEB Secretariat's proposed top-down approach (the top-down approach) to recognising regulatory assets and regulatory liabilities arising from timing differences included in an entity's regulatory capital base (RCB). The discussion focused on the analysis of the first six questions agreed by the Board at its April 2024 meeting[1].

4. The comments received on the paper are set out below.

What is the difference between the IASB's current proposals and the top-down approach?

5. The paper provided an overview of the IASB's current proposals and how the top-down approach addresses the UKEB's concerns with those proposals. The IASB proposals require recognition of certain timing differences by all entities within the scope of the standard. However, recognition of certain other timing differences would be prohibited for entities whose RCB and PPE have no direct relationship. The top-down approach in the paper presented in the meeting entails calculating the difference between PPE and RCB at the end of a period, recognising the difference as a regulatory asset (if RCB exceeds PPE) or a regulatory liability (if PPE exceeds RCB) and measuring the remaining balance using the IASB's measurement proposals.

6. The following points were raised:

   a) Members generally agreed with the analysis of the differences between the IASB's current proposals and the top-down approach described in the paper.

   b) There is a need to ensure that the top-down approach can be applied globally, including addressing the treatment of items such as assets contributed by customers[2]. Members agreed that items like this need to be

[1] The RRA TAG agenda paper was updated for feedback received and discussed at the UKEB's May 2024 meeting. See Paper 7 – May 2024 UKEB meeting.

[2] Assets contributed by customers are those assets that are funded solely by an entity's customers and are recognised as PPE. A regulated entity is however prohibited from recognising any timing differences associated with these assets as they have not incurred any costs in acquiring the assets.

stripped out as it would never be included in the RCB and therefore not be recovered by the entity.

c) The need to consider differences that may arise in business combinations when the PPE is revalued to fair value. Members noted that the RCB was not revalued in a business combination and the revaluation of PPE could contribute to the difference between PPE and RCB.

What are the items that comprise the difference between RCB and PPE?

7. The paper noted that the main timing differences that constitute the difference between PPE and RCB were operating expenses, including performance incentives, and inflation.

8. Members agreed that these were likely to be the most significant timing differences. Others identified regulatory depreciation (for all sectors) and the traffic risk sharing mechanism[3] for the aviation sector entities as potentially significant too.

9. One member commented that, for some industries, although some performance incentives were recognised in the RCB a majority are recognised in revenue and therefore should be captured by the overall requirements in the IASB's proposals that are applicable to all entities.

10. It was noted that in the water sector timing differences created by current assets were only expected to be included on balance sheet for a relatively short period (around 6 months). These are unlikely to be considered significant timing differences.

11. The total expenditure (Totex) mechanism was also discussed and the following points were raised:

    a) Understanding the nature of the items that typically make up the Totex over/underspend is important for the top-down approach.

    b) In the water sector, the Totex adjustments were agreed by the regulator at the end of each price control period, while in the energy sector, the regulator agrees this annually.

[3] The traffic risk sharing mechanism is a volume sharing mechanism between an airport and its customers that is determined by the regulator. Under this mechanism, any differences between the estimated and actual volume in a regulatory period are shared between the entity and its customers using split rate determined by the regulator.

Do the assets and liabilities arising from the top-down approach meet the definitions of regulatory asset and/or regulatory liabilities as per the IASB proposals?

12. The paper sets out the following:

    a) The analysis of the definitions of regulatory assets and regulatory liabilities and the facts and circumstances in ED paragraph 27[4] to consider when assessing the existence of regulatory assets or regulatory liabilities.

    b) That operating expenses and inflation meet those definitions of regulatory assets and regulatory liabilities.

    c) That most of the facts and circumstances listed in ED paragraph 27 would be applicable in the UK.

13. A member stated that, in the UK, this assessment would be a measurement issue rather than an existence issue as regulators do not typically dispute the existence of these balances but rather focus their attention on negotiating the final amounts allowed with the entities.

14. Another member confirmed that the facts and circumstances listed in ED paragraph 27 would apply in the UK. This included indirect precedents and preliminary views expressed by the regulator and at times engaged legal advisors where they sought to push against a regulator's decision.

Does the top-down approach meet the unit of account requirements in the IASB's proposals?

15. The paper set out the following relating to the unit of account:

    a) The ED proposals and IASB's subsequent tentative decisions regarding the unit of account.

[4] Paragraph 27 of the ED states:
"An entity determines whether a regulatory asset or regulatory liability exists using judgement considering all relevant facts and circumstances, including any:
(a) confirmation from the regulator of amounts to be added or deducted in determining future regulated rates;
(b) explicit requirements or guidelines in the regulatory agreement;
(c) regulatory decisions or court rulings interpreting the regulatory agreement;
(d) evidence that allowable expenses have been incurred;
(e) evidence that performance criteria leading to a performance incentive bonus or penalty have been met or have not been met;
(f) direct precedents—the entity's experience with the regulator's interpretation of the regulatory agreement in similar circumstances;
(g) indirect precedents—such as the experience of other entities regulated by the same regulator, the decisions of other regulators or court rulings in similar circumstances;
(h) preliminary views expressed by the regulator; or
(i) advice from qualified and experienced legal or other advisors."

b) An analysis of the top-down approach against these proposals and the Conceptual Framework requirements.

16. Members shared that, although the economics and the risks of the timing differences included in the RCB were different, the regulators did allow entities to group these timing differences for regulatory purposes. Once items are included in the RCB, they are subject to the same risks and have the same expiry pattern as the RCB is treated as one item.

17. Another member noted that for an entity in the aviation sector the traffic risk sharing adjustment is recovered over 10 years, but the RCB is recovered over 20 years. In these cases, entities would need to treat such items as a separate unit of account.

Does the top-down approach meet the recognition criteria in the IASB's proposals?

18. The paper sets out the following:

a) The recognition criteria in the ED.

b) The recognition criteria in the Conceptual Framework.

c) An analysis of the operating expenses and inflation adjustment against these criteria.

19. Some members advised that it would be important to differentiate the recognition criteria proposals for regulatory assets and regulatory liabilities from those of the Conceptual Framework as recognition of regulatory assets and liabilities are currently not permitted nor required under the Conceptual Framework.

20. A member questioned whether the negotiations with the regulator would raise question about the enforceability of a regulatory asset or a regulatory liability. Another member noted that for timing differences under the existing mechanisms, entities could argue that the regulatory assets and or regulatory liabilities are enforceable. However, for new adjustment mechanisms without existing precedents, there may be more uncertainty because entities would have less experience with the regulator in determining enforceability. Entities would need to exercise judgement when assessing the enforceability.

Can the timing differences included in the RCB be tracked and monitored?

21. Members' views were sought on an initial assessment of the timing differences typically included in the RCB of UK regulated entities by sector, including:

a) The nature of the timing differences and the lowest level for which the timing differences are currently tracked and monitored.

b) The proportion of timing differences typically included in the RCB in relation to total timing differences.

c) The availability of information (i.e. whether it is publicly available).

22. Members generally agreed on the following:

a) The typical timing differences listed for the water and energy sectors are mainly non-PAYG[5] Totex additions, inflation indexation and regulatory depreciation.

b) The lines of business in the water sector are water network, wastewater network, water resources and bioresources. These are the lowest level at which timing differences, included in the RCB for those entities, are tracked and monitored by the regulator.

23. Members clarified that for the energy sector the lines of business (and the lowest level at which the regulator tracks and monitors those timing differences) are:

a) Electricity transmission.

b) Electricity distribution.

c) Gas transmission.

d) Gas distribution.

e) Offshore electricity transmission.

24. A member stated that, in the aviation sector, typical timing differences included in the RCB are: (i) the traffic risk sharing mechanism; (ii) capital expenditure incentives; (iii) the cost of new debt mechanism; (iv) the tax uncertainty mechanism; and (v) re-opener provisions (where the regulator goes back to historical items and may allow entities to add these to their RCB).

25. Members agreed that around 60% of timing differences in the water sector are included in the RCB. The proportion needs to be confirmed for the energy sector. For the aviation sector, the proportion varies depending on the point in time in the price control period.

26. Members agreed that all the timing differences identified could be tracked and monitored.

[5] Non-PAYG Totex additions is the proportion of the Totex over/underspend included in the RCB.

27. Members agreed that the information is publicly available in the water and energy sectors and that the availability of information may be more limited in the aviation sector.

Other matters

28. Some members highlighted the importance of considering the following:

    a) The transition proposals and the impact they may have on the top-down approach.

    b) The approach to operationalising the proposed standard globally.

AOB – Preparer survey for IFRS 18

29. The UKEB Secretariat informed members that the project team working on IFRS 18 will be sharing a survey in early June 2024 and that preparer members are encouraged to complete the survey.

30. There being no other business, the meeting ended.

[Please note that, the publication date of this meeting summary is 5 July 2024 and was delayed from 13 June 2024, as per the terms of reference, in order to observe the pre-election sensitivity period ahead of the UK general election.]