



Association pour la participation des  
entreprises françaises à l'harmonisation  
comptable internationale

The IFRS Interpretations Committee,  
7 Westferry Circus,  
Canary Wharf,  
London E14 4HD,  
United Kingdom

Paris, 4 February 2023

Dear M Mackenzie

#### **Tentative Agenda Decision: Definition of a Lease—Substitution Rights (IFRS 16)**

We are writing in response to the above-mentioned Tentative Agenda Decision (TAD) since in our opinion, we believe that:

- **The TAD goes beyond a mere illustration of what the current standard requires**

As the TAD points out, the existence of a right of substitution must be assessed on the basis of paragraph B14 and the two conditions that must exist: a practical ability to substitute alternative assets and an economic benefit from this substitution. It is clear in the standard that the notion of "throughout the period of use" is only specified for the first condition; this temporal condition is not included in the second condition and we do not believe that this was an omission made while drafting the standard.

Furthermore, none of the following paragraphs cited (B15-B18) explicitly state that the economic benefit must exist at all times.

Therefore, when the Committee concludes that *"To assess whether the contract contains a lease, the customer would then apply the requirements in paragraphs B21–B30 of IFRS 16 to determine whether, throughout the period of use, it has the right to obtain substantially all the economic benefits from use, and direct the use, of each battery"*, we believe that this is an interpretation of the standard and not merely a reminder of its contents.

- **The conclusion seriously undermines any possibility of demonstrating any substitution rights**

Although the Committee reminds us that judgment should be used to assess the existence of a substitution right, we believe that its conclusion on this fact pattern will call into question many

existing (and in our view justified) substitution rights. It is indeed unlikely that a lessor can have an equivalent economic advantage throughout the contract, and quite rarely from day one. This, however, does not mean that this right is not genuine.

The Committee also insists on the so-called rarity of these rights by recalling § BC113 and the high hurdle set for a customer to conclude that there is no identified asset; the general reading of this TAD therefore seems to us to lead to a very strong limitation of substitution rights. However, the standard was initially drafted in full recognition of their existence, in particular to allow the distinction between service contracts and lease contracts. If the Board now considers that this distinction is no longer relevant and that the substitution rights must be reviewed, then this must be done by means of a revision of the standard, during the post-application review, for example.

This matter causes us to bring to the Board's attention the succession of various recent conclusions arrived at by the Committee which are, in our view, gradually amending the standard and the fundamental principles on which it was based (we will cite here, for example, the treatment of variable rents in the case of sale and lease back). We believe that all these revisions deserve a clear and structured debate which cannot be performed by means of TADs or even targeted amendments

- **If this conclusion were to be confirmed then the TAD is incomplete and should also address the initial term of the lease**

We note that in the original submission the issue of the initial lease term was also raised. We believe that this is a valid question which also deserves to be dealt with once the Committee concludes that there is a lease contract and an identified asset.

- **Transitional provisions**

We believe that the conclusion could be disruptive and may require entities to change their current accounting practices. Since it is an agenda decision, it should be applied retroactively, thus requiring the reintegration into accounting systems of contracts that had been excluded from them, and consequently a return to the inception date to determine a discount rate, a lease term and more. This could therefore be very onerous.

If you require any further information on this subject, please do not hesitate to contact us.

Yours sincerely,

ACTEO

Lise CHORQUES

