



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



The Chairman of the IFRS IC  
Columbus Building, 7  
Westferry Circus  
Canary Wharf  
London E14 4HD.

21 November 2018

**Dear Ms Lloyd,**

Re : Tentative agenda decision “IFRS 11 : **Liabilities in relation to a Joint operator’s interest in a joint operation**”

We welcome the opportunity to comment on the above tentative agenda decision published in September 2018, since we have two main concerns relating to this tentative decision.

The first concern relates to the **timetable**:

We do not think that it is appropriate to publish an agenda decision that would certainly affect significantly the accounting for some lease contracts, only few weeks before the effective transition date of IFRS 16.

Actually, even though the Committee has decided not to specify how the “primary lessee” will have to account subsequently for its rights to recover some of the lease costs, we understand that the mechanism to be used would be that of a sublease. Sublease mechanisms are quite complex to implement in the context of IFRS 16 restatements and require specific parameters that have not necessarily been anticipated by the entities concerned by the joint operation (JO) lease contracts. The proposed accounting treatment will therefore be quite disruptive and has not been planned for.

Our second concern is that we believe that the tentative decision **fails to depict appropriately the substance and the reality of the whole transaction** by focusing only on one aspect.

The analysis provided in the staff paper and reflected in the tentative agenda decision does not properly reflect the way the operations are conducted in practice and therefore does not reflect the legal substance of the various arrangements that are involved. The tentative agenda decision focuses only on one part of the arrangements, that is, the lease contract. It fails to address the fact that the key substance and the combined legal effect of the

arrangements (the lease contract and the joint operating agreement) result in the lead operator entering into an agreement on behalf of the joint operation.

In such a context, contracts entered into with the lessor go much further than a mere recourse clause against other joint operators in the event of non-payment by the lead operator. Contracts generally specify not only the lead lessor but also other participants, i.e. joint operators other than the lead operator, since the latter is entitled to assign the contract to any participant without requiring the consent of the service provider (the lessor in this case). Lessors are aware that the lead operator enters into the contact because it operates on behalf of the members of the JO and lessors are also aware that operatorship might be transferred to any other participant. There would be no contract with the lessor if there was no JO.

We therefore believe that in these circumstances, the other members of the JO should be considered also as primary obligors and not merely as sureties.

In previous discussions about joint operations (July 2014 agenda paper 2B), the committee concluded that a guarantee contract could affect the rights and obligations of all parties to a joint operation. We therefore consider that the Committee cannot today deny that it is the substance of all the elements of the arrangement taken as a whole that should be accounted for. We believe that the Committee should not disregard the cases where the joint arrangement impacts the rights and obligations of each operator with external contracts.

We are also troubled by the absence of any discussion about the subsequent accounting for the ROU in the tentative agenda decision. We believe that the Committee should analyse the whole accounting treatment with a consistent assessment of the effect of the joint arrangement on both liabilities and the assets of all operators.

We therefore recommend that the committee

1/ Defer the publication of the agenda decision and undertake a more holistic analysis that may lead to an amendment of the current standard.

2/ Otherwise, be much less radical in its conclusions and if published, an agenda decision should only conclude that the accounting treatment should be established in a case-by-case assessment based on all specific facts and circumstances.

If you require any clarification or information, please do not hesitate to contact us.

Yours sincerely,

ACTEO

Patrice MARTEAU  
Chairman



AFEP

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Director General



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Agnès LEPINAY  
Director of economic  
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