



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
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المنظمة الدولية لهيئات الأوراق المالية

18 May 2021

Ms. Sue Lloyd
Chair of the IFRS Interpretations Committee
Columbus Building
7 Westferry Circus
Canary Wharf
London E14 4HD
United Kingdom

Our REF: 2021/O/C1/IFRIC/MS/31

RE: Tentative Agenda Decision – Non-refundable Value Added Tax on Lease Payments

Dear Ms. Lloyd, *See*

The International Organization of Securities Commissions (IOSCO) Committee on Issuer Accounting, Auditing and Disclosure (Committee 1) thanks you for the opportunity to provide our comments on the IFRS Interpretations Committee (IFRS IC) tentative agenda decision, *Non-refundable Value Added Tax on Lease Payments* (TAD).

IOSCO is committed to promoting the integrity of the international markets through promotion of high quality accounting standards, including rigorous application and enforcement. Members of Committee 1 seek to further IOSCO's mission through thoughtful consideration of accounting and disclosure concerns and pursuit of improved transparency of global financial reporting. The comments we have provided herein reflect the general consensus among the members of Committee 1 and are not intended to include all of the comments that might be provided by individual securities regulator members on behalf of their respective jurisdictions.

We appreciate the IFRS IC addressing this topic to support preparers in their application of International Financial Reporting Standard (IFRS) 16, *Leases* to the fact pattern submitted and believe doing so can contribute to consistent application of IFRS, which is a goal of Committee 1. We observe that the TAD noted that outreach conducted by the IFRS IC provided limited evidence (a) that non-refundable Value Added Tax (VAT) on lease payments is material to affected lessees; and (b) of diversity in the way lessees in similar circumstances account for non-



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refundable VAT on lease payments, and therefore the IFRS IC decided not to add a standard-setting project to the work plan.

We agree with the IFRS IC's decision not to add a standard-setting project to the work plan but not for the reasons cited in the TAD. In our experience, these and similar tax arrangements exist in a number of different jurisdictions, and therefore we believe the issue is likely widespread and could be material for a number of entities. Further, members of Committee 1 are aware of differing views on the appropriate accounting in the fact pattern submitted, leading us to believe that diversity in practice is likely to exist. Therefore, we recommend that as part of the final Agenda Decision, the IFRS IC include an analysis of the accounting considerations an entity would need to assess in order to conclude on the appropriate accounting.

We believe that a framework that would be useful in the final Agenda Decision could be a "decision tree" similar to the concept that was discussed by some of the IFRS IC members at the meeting on 16 March 2021. Because facts and circumstances may vary by jurisdiction, including an analysis in the final Agenda Decision could be used by issuers to evaluate their specific fact pattern which could reduce any diversity in practice.

With regards to the fact pattern submitted, a view held by some members of Committee 1 is that an assessment of which party (the lessee or lessor) is the primary obligor to the taxing authority for the non-refundable VAT should first be performed. That analysis might be similar to the principal vs agent analysis under IFRS 15 *Revenue from Contracts with Customers*. Under this approach, if the lessee is the primary obligor and the lessor is, in substance, collecting those amounts as an agent on behalf of the taxing authority, then the non-refundable VAT payments would not be part of the consideration in the lease contract (and thus not form part of the lease liability and right-of-use asset) since they are not payments to the lessor for the right to use the asset. Rather, they are part of a separate arrangement between the lessee and the taxing authority.

A second view held by some members of Committee 1 is that, by law, the lessee has the obligation to pay the amounts specified in the lease contract to the lessor, which are increased by VAT. The fact that the lessor might be acting as an agent to collect the VAT for the government does not alter the lessee's obligation to pay the full amount invoiced by the lessor (i.e., the lessee would be in default of the lease agreement if it withheld from its periodic payments the amount attributable to VAT). Since IFRS 16.26 measures the lease liability at the commencement date as the present value of the lease payments that are not yet paid, under this view the VAT is part of the payments due to the lessor and meets the definition of lease payments. Proponents of this



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view note the result (including VAT payments in the calculation of the right-of-use asset) is consistent with the accounting for purchases of property, plant and equipment.

Given the diversity in views and the widespread nature of this issue, we believe an explanatory analysis with references to the guidance in IFRS 16 should be provided as part of the final Agenda Decision. This would help drive comparable accounting results for those jurisdictions where diversity may exist.

We appreciate your thoughtful consideration of the views provided in this letter.

If you have any questions or need additional information, please do not hesitate to contact Cameron McInnis, Chair of the Accounting Subcommittee of Committee 1 at +1 416-593-3675 or myself. In case of any written communication, please mark a copy to me.

Yours sincerely,

Makoto Sonoda

Chair
Committee on Issuer, Accounting, Audit and Disclosure
International Organization of Securities Commissions