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N° 115

Paris, 21 November 2018

Mrs Lloyd

IFRS Interpretations Committee Chair

7 Westferry Circus, Canary Wharf

LONDON, UK, E14 4HD

September 2018 - IFRS-IC tentative agenda decisions

Dear Mrs Lloyd, Dear Sue,

I am writing on behalf of the Autorité des Normes Comptables (ANC) to express our views on the IFRS-IC tentative decisions published in September 2018 IFRIC Update regarding IFRS 9 / IAS 39 – *Application of the highly probable requirement in a cash flow hedge relationship* as well as IFRS 11 / IFRS 16 – *Liabilities in relation to a joint operator's interest in a joint operation.* This letter sets out two critical comments raised by interested stakeholders involved in ANC's due process.

Application of the Highly Probable Requirement in a Cash Flow Hedge Relationship (IFRS 9 and IAS 39)

ANC concurs with the conclusion of the Committee which is a relative straight forward application of IFRS 9 as written. Our constituents have also confirmed that load-following swaps are currently not common in our jurisdiction.

We however are concerned that the case raises a broader application issue. Those load-following swaps as well as certain "deal contingent derivatives" (that cease to exist if the hedged transaction does not materialise) do provide a perfect hedge even if the occurrence of the hedged transaction is not highly probable. This is for instance the case when an instrument hedges the foreign currency risk on a forecasted business combination or forecasted cash flows from a tender. This is because in those cases, the hedge is perfect, i.e. there is no mismatch between the hedged item and the hedging instruments. The fact that the quantity or the timing of the hedged item is linked to a contingency doesn't create any ineffectiveness as long as such contingency is perfectly reflected into the hedging instrument.
We are of the view that the issue raised would require an amendment of IFRS 9 and IAS 39 allowing to skip the "highly probable" test when a hedging instrument is designed in a way that ensures that the quantity of the hedging instrument reflects the quantity of the hedged item: in those specific limited circumstances, we do not see the need for the highly probable test.

Liabilities in relation to a Joint Operator's Interest in a Joint Operation (IFRS 11 and IFRS 16)

ANC concurs with the conclusion of the Committee based on the specific assumptions made in the fact pattern, namely that (i) the joint operation is not structured through a separate vehicle and that (ii) the lead operator is the sole signatory of the lease agreement, having primary responsibility for the entire liability, whereas other joint operators are not party to the lease contract.

We also support the Committee when it highlights that "identifying the liabilities that a joint operator incurs and those incurred jointly requires an assessment of the terms and conditions in all contractual agreements that relate to the joint operation, including consideration of the laws pertaining to those agreements." In order to prevent any extrapolation of the above specific case, we encourage IFRIC to also illustrate other cases referred to in § 21 of AP 3: for instance when the lead operator is entitled to assign the contract to any participant without requiring the consent of the lessor.

However, French constituents are concerned by the timing, magnitude and scope of the agenda decision, issued shortly before the effective implementation date of IFRS 16.

We have been reported that very significant industries (oil & gas but also pharmaceutical, utilities and construction industries) did not anticipate such an impact of the first time application of IFRS 16 on joint operations either on the liability or on the asset side. This raises a very practical issue.

The time constraint is exacerbated by the fact that the agenda decision only deals with the accounting for the obligation but does not address the debit side of the entry. When considering what the accounting should be for the debit side, ANC is concerned that it is also a complex issue that could give rise to diversity in practice. The lack of conclusion of the Committee on the accounting treatment of the assets generated by IFRS 16 concurs to provide the impression that such a clarification may not be straight forward.

As a conclusion, ANC is concerned that a late and incomplete decision at the eve of the first time application of IFRS 16 may have a significant impact. We therefore suggest addressing this question in a holistic manner, i.e. extending the original question raised to analysing the accounting treatment of the newly recognised right of use.

Regarding the time constraint, we reiterate the full support made in our comment letter[1] to the contemplated IAS 8 amendment regarding agenda decisions acknowledging that an immediate application would generally be unreasonable.

Please do not hesitate to contact us should you want to discuss any aspect of our letter.

Yours sincerely, Kind regards.

Patrick de Cambourg

Patrick de Cambourg

[1] http://www.anc.gouv.fr/files/live/sites/anc/files/contributed/ANC/2.%20Normes%20internationales/NI%202018/Lettre_ANC_%20ED_IASB_Accounting-policies-changes_2018-01.pdf