



Mr. Jean-Paul Gauzès
Acting President of the EFRAG Board
EFRAG
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Belgium

Sent by email:
Commentletters@efrag.org

Brussels, 8 December 2016

Subject: EFRAG's Preliminary Consultation Document on the endorsement of IFRS 16 Leases

Dear Mr. Gauzès,

The Federation of European Accountants (www.fee.be) is pleased to provide you with its comments on EFRAG's Preliminary Consultation Document to assist constituents to participate in the development of its endorsement advice on IFRS 16 *Leases* to the European Commission.

- (1) The Federation has not conducted any survey or detailed examination allowing it to provide evidence to each of the responses expected.
- (2) As such, the Federation would restrict its views to support EFRAG providing a positive endorsement advice on the IFRS 16 Standard, as we generally do not disagree with the conclusions included in its draft endorsement advice. We share some other thoughts below.
- (3) The endorsement of the Standard should be done swiftly and at the latest by the first quarter of 2017, as projected by EFRAG, to allow sufficient time for implementation, or even early adoption of IFRS 16 by entities that wish to apply IFRS 16 at the same time as IFRS 15 *Revenue from Contracts with Customers*.
- (4) Without diminishing our support to swift endorsement, we observe that IFRS 16 will create some implementation challenges due to the fact that it requires judgement to be applied in some areas (also highlighted in the EFRAG draft endorsement advice). Still, those implementation challenges do not appear to us more significant than those existing in applying some other standards. That being said, in addition to the application challenges that exist currently under IAS 17, and that will have a more significant impact due to the IFRS 16 accounting (lease term and discount rate), we confirm that we have identified some new application challenges around the:
 - *Definition of a lease versus the definition of a service* - the new definition of a lease requires more careful reflection to classify arrangements that comprise a lease (formerly IFRIC 4). Assessing whether an arrangement meets the definition of a lease might involve significant judgement for some arrangements in some industries (e.g. energy, telco...), in particular for the arrangements where the "how and for what purpose the asset is used" could be



- considered as “predetermined”. The “involvement in the design” of the asset can also be a challenging aspect of the standard in those cases. Consequently, if the distinction between a lease and a service is in most cases easy to perform, it might be difficult to do and audit in some specific businesses. Still, this difficulty is no more important than certain other areas where judgement is required to be applied when financial statements are being prepared.
 - *Definition of “in-substance fixed payments”*– the decision whether a contingent payment is an in-substance fixed lease payment requires significant judgement, especially since the standard provides only restricted guidance on how to interpret the term.
- (5) In addition, for countries using IFRS as a basis for the companies’ tax returns, we note that there may be changes in the tax treatment of leases from the application of the new standard which could affect the behaviour of both the investors and lenders. There is no homogenous leasing concept for tax purposes amongst the jurisdictions therefore variations are expected across the EU. The view of the tax authorities would be needed in order to have the whole picture of the changes that IFRS 16 might bring. We note that ultimately it is up to the Member States to decide whether they want to follow IFRS for tax purposes, or not.
- (6) Also it is not yet known what the reaction of the prudential regulators would be for regulatory capital purposes, i.e. what are they going to do in terms of risk-weighting assets, but we also identify that the implementation of IFRS 16 may have a direct effect on the level of capital requirements of some regulated entities (e.g. banks). However, this is a matter for consideration by the banking authorities.
- (7) Furthermore, despite the efforts of the IASB and the FASB to develop a fairly similar standard, the objective of alignment was not achieved in all cases. IFRS 16 removes the problematic line between operating and finance leases which reduces complexity and related cost, particularly compared to the FASB solution.

For further information on this letter, please contact Eleni Ashioti on +32 (0)2 8933387 or via email at eleni.ashioti@fee.be from the Federation’s team.

Sincerely,

On behalf of the Federation of European Accountants,

Petr Kriz
President

Olivier Boutellis-Taft
Chief Executive