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Mr Andreas Barckow
International Accounting Standards Board
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London
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Our ref RD/288

07 May 2021

Dear Mr Barckow,

Comment letter on Request for Information on the Post-implementation Review of IFRS 10, IFRS 11 and IFRS 12

We appreciate the opportunity to comment on the International Accounting Standards Board's (the Board) Request for Information on the Post-implementation Review (PIR) of IFRS 10 *Consolidated Financial Statements*, IFRS 11 *Joint Arrangements* and IFRS 12 *Disclosure of Interests in Other Entities*. We have consulted with, and this letter represents the views of, the KPMG network.

We welcome the Board's due process on this suite of Standards on consolidation. Whilst IFRS 10, IFRS 11 and IFRS 12 have been successful in addressing many of the historical shortfalls, ongoing application has revealed areas that warrant further attention from the Board. We believe the Request for Information has appropriately identified most of these areas, especially the investment entities framework and principles around identifying de facto agency.

We appreciate that the investment entities framework was developed to address specific sector needs and their business models and we are supportive of the principle of having such a framework. However, a considerable number of interpretation and application questions have arisen since its introduction. Despite many of these issues having been brought forward for the IFRS Interpretations Committee's (IFRIC) consideration, challenges in applying the existing guidance remain, giving rise to significant diversity in practice. We believe that the Board should reconsider the guidance around the identification of an investment entity as a result of this PIR.

Similarly, de facto agency arrangements are common in certain industries and also arise in many group situations. Our experience has been that IFRS 10 does not provide sufficiently clear guidance to cater for the complexity these arrangements often entail and leaves too much breadth for judgement.

Another area which we believe should be on the Board's priority list is to provide clarity on how IFRS 10 and 11 should be applied in conjunction with other Standards. In addition to the historical (yet unresolved) question around the accounting for the sale or

contribution of a subsidiary into an equity-accounted investee, the high number of recent IFRIC discussions on IFRS 10/11 vs. IFRS 15/16 issues is revealing the significant impact and pervasiveness of the tension between various Standards. We are concerned that the IFRIC's March 2019 decision on *Liabilities in relation to a joint operator's interest in a joint operation* may have taken the practice one step further away from clarity with its perceived disregard for the principles of IFRS 11, and possibly opened up unintended consequences for the application of IFRS 10/11 in other areas.

Appendix A to this letter contains our detailed responses to the questions raised in the Request for Information. In Appendix B, we elaborate on additional matters we believe the Board may wish to consider as part of this PIR.

Please contact Reinhard Dotzlaw at Reinhard.Dotzlaw@kpmgifrg.com or Peter Carlson at pcarlson@kpmg.com.au if you wish to discuss any of the issues raised in this letter.

Yours sincerely

KPMG IFRG Limited

KPMG IFRG Limited

Appendix A

KPMG's responses to the specific questions raised in the Request for Information

Question 1 – Your background
To understand whether groups of stakeholders share similar views, the Board would like to know: (i) your principal role in relation to financial reporting. Are you a user or a preparer of financial statements, an auditor, a regulator, a standard-setter or an academic? Do you represent a professional accounting body? If you are a user of financial statements, what kind of user are you, for example, are you a buy-side analyst, sell-side analyst, credit rating analyst, creditor or lender, or asset or portfolio manager? (ii) your principal jurisdiction and industry. For example, if you are a user of financial statements, which regions do you follow or invest in? Please state whether your responses to questions 2–10 are unrelated to your principal jurisdiction or industry.

KPMG is a global network of professional firms providing audit, tax and advisory services. We have extensive experience in the interpretation and application of IFRS 10, IFRS 11 and IFRS 12 in our roles as auditors and advisors.

Question 2(a)
In your experience: (i) to what extent does applying paragraphs 10–14 and B11–B13 of IFRS 10 enable an investor to identify the relevant activities of an investee? (ii) are there situations in which identifying the relevant activities of an investee poses a challenge, and how frequently do these situations arise? In these situations, what other factors are relevant to identifying the relevant activities?

We continue to support principle-based Standards and find the existing guidance in IFRS 10 helpful in identifying relevant activities. However, we also acknowledge that applying the principles in IFRS 10 often involves a high degree of judgement, which in turn leads to diversity in practice.

Our experience has been that the identification of relevant activities continues to be particularly challenging in certain situations:

— *Single-asset, single-lessee lease vehicles*

The existing guidance in IFRS 10.B11 – B13 is from the standpoint of an investee that is a 'standard' business with various operating and financing activities. It does not explicitly deal with situations where the investee is a structured entity, set up for a narrow and specific purpose.

One example of this is a structured entity created to lease a single asset to a single customer (lessee). Prior to the decision by the IFRIC in May 2015, there was

confusion regarding what the relevant activities of such a structured entity would be, and whether the customer's (lessee's) right to use the underlying asset during the lease term gives the lessee decision-making rights over the structured entity.

While the 2015 IFRIC decision provided useful guidance on the relevant activities, variations of the scenario discussed by the IFRIC continue to be challenging and result in different interpretations (e.g. if the assets are sold to the vehicle and then leased back by the same party or if the seller-lessee retains an interest in the investee).

— *Where relevant activities are largely predetermined*

IFRS 10.B53 addresses the situation where relevant activities only arise when particular circumstances or events take place. However, the existing guidance is not clear as to whether:

- an investee operating fully on autopilot with no decisions to make can still have relevant activities, if its design most significantly affects its returns; and
- it is possible for an investee to have no relevant activities.

Whilst the examples contained in the Board's 2011 *Effect Analysis for IFRS 10 and IFRS 11* have been useful for dealing with these issues, caution needs to be taken in referring to a source which ultimately does not form part of the authoritative Standard.

— *Where there are a number of relevant activities and/or where different investors have unilateral rights to make decisions over different relevant activities*

As illustrated in Application Example 1 in IFRS 10.B13, evaluating which of the relevant activities most significantly affects the investee's returns needs to take into account a myriad of factors, all of which are specific to the particular arrangement.

Some examples of situations that we have encountered are vehicles in the pharmaceutical sector that have been set up specifically to conduct trials for a drug component. In these cases, the responsibilities are often split such that one investor is responsible for the conduct of the trial up until the approval of the drug while the other investor is responsible for the distribution and marketing of the approved component. We are aware of diversity in practice around the assessment of which of the two undertakings is considered as the most relevant activity, and hence which investor has power.

— *Where decisions over the relevant activities are made outside of the vehicle*

There can be instances where relevant activities occur outside of the investee itself. See example 5B in 2.5.75.95 – 120 of KPMG's *Insights into IFRS*, 17th edition for illustration of this.

We welcome further guidance from the Board on how to identify relevant activities in these situations.

Question 2(b)
In your experience: (i) to what extent does applying paragraphs B26–B33 of IFRS 10 enable an investor to determine if rights are protective rights? (ii) to what extent does applying paragraphs B22–B24 of IFRS 10 enable an investor to determine if rights (including potential voting rights) are, or have ceased to be, substantive?

In our experience, applying the existing principles in IFRS 10 to determine whether certain rights are substantive or protective have been particularly challenging in the following scenarios:

— *Troubled debt*

In evaluating whether the investor has power, IFRS 10.B22 and B26 require the investor to consider the nature of the rights it and others hold. Although IFRS 10.B28 provides some examples of protective rights held by lenders, the existing guidance does not adequately address the delicacy of troubled debt situations where both the lender and (previous) controlling entity may be actively involved in the decision making of the investee.

To address this gap, we have developed guidance to determine whether a lender's rights are sufficient to give it power. The assessment depends on the combination of the following two factors, derived from the fundamental principles of "power" and "relevant activities":

— How significant the lender's rights are in relation to the relevant activities of the investee; and

— The effect of the borrower's economic circumstances on the investee's relevant activities.

— *Potential voting rights through options and trigger clauses*

Options are the most common examples of potential voting rights we come across that cause challenges. The assessment of whether the rights are substantive requires judgement, taking into account all of the relevant facts and circumstances, including the purpose and design of the option.

— Some options may only become exercisable in the event of a deadlock and grant the option holder the ability to make unilateral decisions. Despite its exercise being dependent on some contingent event, the holder may nevertheless hold substantive rights as the contingency relates to decision making.

— Determining whether the exercise price is at a level that would result in potential voting rights being substantive has also been a challenging question. This assessment requires an analysis into whether the potential voting rights are in

or out of the money, which may not always be straightforward (e.g. if the exercise price includes an embedded control premium). A question also arises as to which and how much of other, non-market factors (e.g. operational synergies to be gained by the holder on exercise) should be taken into account, especially when the exercise price is close to the market price.

— Some options may become exercisable on contingent events that are outside the control of the parties to the agreement (e.g. regulatory approvals, resolution of legal matters, approval by other shareholders). Judgement is required to determine whether these events pose significant barriers to exercise.

— *Liquidation, bankruptcy or receivership events*

Evaluation of rights that take effect on events such as liquidation, bankruptcy or receivership is another common example we have seen. Similar to troubled debt, the assessment as to which party holds substantive rights may be relatively simple during the years of healthy financial performance. However, a careful analysis is required when such triggering events take place because the rights of the controlling entity can be significantly affected. Our experience has been that the analysis is not just restricted to the terms of the arrangement, but often requires consideration of local regulations, as seen in receivership cases.

Another concern we have relates to the significant diversity in practice on the factors that are taken into account when determining whether the rights held are substantive (in scenarios other than troubled debt).

One approach applied in practice that we are aware of first requires an understanding of the legal rights held by an investor, and then the application of IFRS 10.B23 – 24 to consider whether there are barriers that would impose a practical limit on the ability to exercise those rights when decisions on the relevant activities are made. However, we are also aware of other practices that give greater weight to other factors – such as historical behaviour – when performing the same assessment.

To illustrate the above, consider the following fact pattern. Company A and Company B hold 55% and 45% of voting rights in Company C respectively. Company B can block any decisions on the annual budget. However, historically B has never blocked such decisions.

Depending on the approach applied, the assessment of power in this case might either lead to Company A and B jointly controlling C, if B's power to block is considered substantive or Company A having power over C if the historical evidence of B never using its veto power is considered more strongly.

Therefore, we see diversity in practice regarding rights exercisable on certain decisions, such as veto rights and approval rights for budgets.

The lack of consistency has significant accounting consequences. Furthermore, the issue is not just restricted to the control assessment at the time of the initial transaction; determining whether an investor holds substantive rights is also relevant for the:

— joint control assessment, thereby affecting transactions that fall into the scope of IFRS 11 (or outside, as outlined in Question 6); and

— ongoing assessment of control, as required by IFRS 10.B80 – B85 (see Appendix B).

We recommend the Board consider developing further guidance to provide clarification and reduce diversity in practice.

Question 2(c)
In your experience: (i) to what extent does applying paragraphs B41–B46 of IFRS 10 to situations in which the other shareholdings are widely dispersed enable an investor that does not hold a majority of the voting rights to make an appropriate assessment of whether it has acquired (or lost) the practical ability to direct an investee's relevant activities? (ii) how frequently does the situation in which an investor needs to make the assessment described in question 2(c)(i) arise? (iii) is the cost of obtaining the information required to make the assessment significant?

In our view, applying the existing principles in IFRS 10 to determine whether an investor without majority voting rights has control involves a high degree of judgement in most cases.

The Standard currently contains two examples: Example 4, illustrating an extreme scenario and Example 5, involving an investor who already has other rights that give it power. Otherwise, there is no further guidance that helps to evaluate where an investor is on the power spectrum.

In our experience, the issue arises more frequently in certain jurisdictions (e.g. Korea), and the most frequently asked questions when making this assessment have been:

— *How much shareholding is sufficient?*

One of the most basic but often debated questions is whether there is a tipping point at which the relative holding of an investor would be considered sufficient to establish power.

Another frequently asked question is around the relative size and dispersion of other investors' holdings. For example, an investor holds 33% interest in an investee and the second largest investor holds 7%. The nine next largest shareholders together hold 15% and the rest (45%) are dispersed amongst hundreds of shareholders. In this scenario, is there sufficient 'dispersion' of other shareholdings to establish that the investor may still retain the practical ability to direct?

— *How relevant is the history of voting patterns?*

Although voting patterns at past meetings is one of the factors to take into account, there isn't clear guidance as to how much history would be considered sufficient to establish or lose power. For example:

— For an investor that holds 40% interest in an investee with 12 other investors each holding 5%, how many years of past meetings would be considered as sufficient evidence to establish a voting pattern?

— Would the expectation in the above scenario be affected if this is a new investment for the investor? Would we require more than 'x' number of AGMs post acquisition to establish the voting pattern, or could the history of the other minority investors from past AGMs still be used?

Albeit the assessment can be complicated, the costs involved in obtaining the relevant information has not been brought to our attention as a significant issue for preparers.

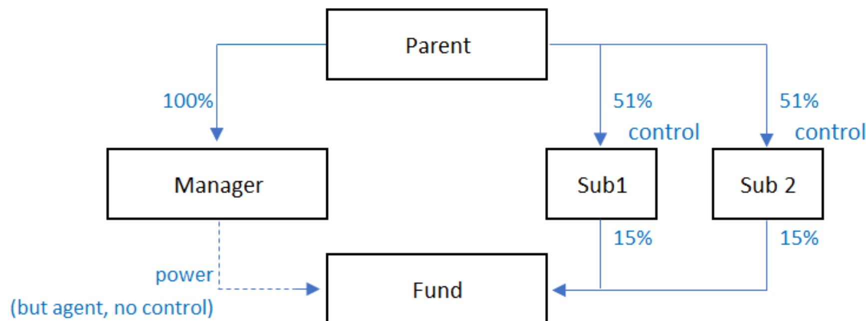
We recommend the Board consider developing further guidance in respect of the two significant judgement areas identified above. This would also help reduce the tension with various regulators, whom we know also hold different expectations due the lack of clear guidance.

Question 3(a)
In your experience: (i) to what extent does applying the factors listed in paragraph B60 of IFRS 10 (and the application guidance in paragraphs B62–B72 of IFRS 10) enable an investor to determine whether a decision maker is a principal or an agent? (ii) are there situations in which it is challenging to identify an agency relationship? If yes, please describe the challenges that arise in these situations. (iii) how frequently do these situations arise?

We have generally found the existing guidance in IFRS 10 to be helpful in determining whether a decision maker is a principal or an agent. However, we are also aware of varying approaches when applying the same guidance. For example:

— Should the 22% in Example 14A be considered as the 'minimum' threshold required to establish exposure to variability of returns as a principal?

— If the investment is in a complicated group structure with layers of subsidiaries with NCIs, how should the investor calculate its exposure to variability? Should it only take into account the economic interest it is exposed to (i.e. exclude the exposure that amounts to the NCI's share), or should it consider all of the returns of the intermediate subsidiaries (as the investor can control the distributions)?



In determining whether the Parent has control over the Fund, how should it determine the economic interest it is exposed to (establishing linkage)?

View 1: Based on its actual returns - i.e. (51% x 15%) + (51% x 15%) = 15.3%

View 2: Based on the returns within its control - i.e. 15% + 15% = 30%

Our experience has been that this question arises more frequently in certain industries, particularly for fund managers and securitisation vehicles. However, we have observed that it can also be relevant for corporates/non-fund structures. The latter cases are challenging to deal with, as the examples in the existing Standard are solely focused on funds and finance sectors.

We therefore welcome more guidance, such as illustrative examples, from the Board to clarify how the existing principles should be applied to both funds and non-funds preparers.

Question 3(b)
In your experience: (i) to what extent does applying paragraphs B73–B75 of IFRS 10 enable an investor to assess whether control exists because another party is acting as a de facto agent (ie in the absence of a contractual arrangement between the parties)? (ii) how frequently does the situation in which an investor needs to make the assessment described in question 3(b)(i) arise? (iii) please describe the situations that give rise to such a need.

We have found the existing guidance in IFRS 10 challenging to apply in determining whether a party is acting as a de facto agent for another.

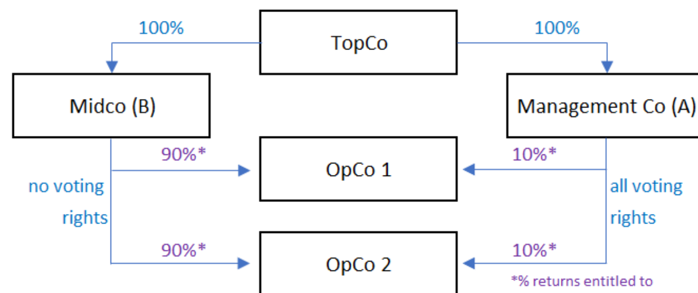
The issue is similar to Question 2(c) in that both are ‘exceptions’ that depart from plain vanilla arrangements where the majority investor holds power. However, the guidance on assessing de facto agency is comparatively brief and provides minimal insight into how the “interaction” with those other parties should be assessed.

This lack of clear guidance has led to significant room for judgement. We are also aware that some entities in practice use the absence of explicit guidance to argue that no party has control.

In our experience, the de facto agent question arises most often in:

— the funds industry, where a general partner could be acting as a de facto agent for the investor.

— group structures, where power and exposure to returns are split between different – but related – parties. For example:



How do we make the assessment as to which entity is acting as the agent for which other entity?

We therefore recommend the Board consider developing further guidance to clarify how the existing principles should be applied in these situations.

Question 4(a)
In your experience: (i) to what extent does applying the definition (paragraph 27 of IFRS 10) and the description of the typical characteristics of an investment entity (paragraph 28 of IFRS 10) lead to consistent outcomes? If you have found that inconsistent outcomes arise, please describe these outcomes and explain the situations in which they arise. (ii) to what extent does the definition and the description of typical characteristics result in classification outcomes that, in your view, fail to represent the nature of the entity in a relevant or faithful manner? For example, do the definition and the description of typical characteristics include entities in (or exclude entities from) the category of investment entities that in your view should be excluded (or included)? Please provide the reasons for your answer.

We believe this is a priority area for the Board. One major problem we find with the “investment entity” definition is that it essentially requires the investor to have passive involvement with the investee; which is fundamentally disconnected from the concepts of control, power and linkage in IFRS 10.

We also continue to see significant diversity in practice. In some instances, there is a disconnect between the outcome of applying the Standard and what the entity believes is most appropriate based on its business model. On the other hand, others seem to be

able to achieve the accounting outcome they prefer by taking advantage of the room for interpretation available under the existing requirements.

Some of the issues we have encountered – where we believe the intent and operation of the Standard is unclear and results in considerable diversity in application – are:

Interpretation issues

— *Investment management services and investment-related services/activities*

One of the essential elements of an investment entity is that it needs to obtain funds from investors for the purpose of providing *investment management services* [IFRS 10.27(a)]. IFRS 10.B85C provides examples of *investment-related services* which an investment entity is permitted to provide with no limitation. B85D, on the other hand, provides examples of *investment-related activities* which, in *substantial* amounts, would prevent an entity from meeting the definition of an investment entity.

The underlined terms are critical in determining whether an entity should be considered as an investment entity. However, none of these are defined by the Standard and it is also unclear as to how these terms should be interpreted in relation to each other.

Another layer of complexity is added by the requirement in IFRS 10.B85E to consolidate subsidiaries that are set up to provide investment-related services or activities on behalf of the investment entity parent. Until the March 2014 IFRIC discussion, there was lack of clarity as to whether being an intermediate parent set up to act as a holding company simply for tax optimisation purposes could be considered as fulfilling some investment-related services or activities.

Application issues

— Venture capital investors looking for a quick turnaround are, in general, significantly involved with the management of the investee. Therefore, in almost all cases we would not expect such investors to be able to meet the investment entity definition.

However, we continue to receive questions on the applicability of the investment entity framework to these scenarios, mainly because their business model considers these investments as "held for trading" (and management are thereby evaluating them on a fair value basis).

— Various issues in group structures with multiple layers of holdings, for example:

— Can a master fund further down a group chain with passive investments but no subsidiaries (i.e. is itself not a parent) still apply the principles in IFRS 10.27 ("A *parent* shall…") to determine whether it is an investment entity subsidiary for the top-level master feeder fund?

— IFRS 10.B85H states that an investment entity does not need to have an exit strategy for an investment entity investee that is formed in connection with the

entity for legal, regulatory, tax or similar business reasons. To apply this guidance:

- — Does an intermediate parent need to actively fulfil some defined function to satisfy that it has been "formed in connection with the entity for legal, regulatory, tax or similar business reasons", or can it be a passive conduit? If some activity is required, would being a signatory and a pass-through entity for costs be sufficient?
- — Does an investment entity need to have been "formed" by the investor, or can the guidance still apply if the investment is externally acquired?

— To satisfy the requirement in IFRS 10.27(b) – that it has "committed its business purpose to its investors" – to what extent should the details about an intermediate parent be made available to the investors?

— Whether the existence of external debt at an intermediate parent level would automatically disqualify it from investment entity classification, because it is not "obtaining funds from… investors for the purpose of providing… investment management services" [IFRS 10.27(a)]. On a related note, at what point could an external loan be seen as being a part of the service provision to the lender (e.g. loan management and collection), rather than a resource used to generate capital appreciation and/or investment income?

— Whether producing local GAAP accounts that measure investments at cost would automatically disqualify the fair value measurement criterion in IFRS 10.B85K – B85L.

Question 4(b)
In your experience: (i) are there situations in which requiring an investment entity to measure at fair value its investment in a subsidiary that is an investment entity itself results in a loss of information? If so, please provide details of the useful information that is missing and explain why you think that information is useful. (ii) are there criteria, other than those in paragraph 32 of IFRS 10, that may be relevant to the scope of application of the consolidation exception for investment entities?

The most notable "loss of information" problem we have experienced is when an intermediate holdco has been set up solely for tax optimisation purposes or to hold investments as a beneficial owner. The current Standard requires these intermediate holdco groups to be measured at fair value instead of 'looking through' to reflect the fair values of the actual underlying investments, which are the key object of interest for the reporting entity and its investors.

In conjunction with our observations in Question 4(a), we urge the Board to undertake a thorough review of IFRS 10's investment entity framework.

Question 5(a)
In your experience: (i) how frequently do transactions, events or circumstances arise that: a) alter the relationship between an investor and an investee (for example, a change from being a parent to being a joint operator); and b) are not addressed in IFRS Standards? (ii) how do entities account for these transactions, events or circumstances that alter the relationship between an investor and an investee? (iii) in transactions, events or circumstances that result in a loss of control, does remeasuring the retained interest at fair value provide relevant information? If not, please explain why not, and describe the relevant transactions, events or circumstances.

'Step down' from parent to joint venture or significant influence are common occurrences, accounting for which is already dealt with by the existing Standards. We also see entities changing from the controlling party to that of a joint operator, but there is no guidance that addresses such loss of control transactions.

In these situations, it is unclear whether the investor is required to re-measure its retained interest in the assets and liabilities of a joint operation. The feedback we have received from preparers on the relevance of fair value information has been mixed, their views being driven by what they believe financial statements should present.

Question 5(b)
In your experience: (i) how do entities account for transactions in which an investor acquires control of a subsidiary that does not constitute a business, as defined in IFRS 3? Does the investor recognise a non-controlling interest for equity not attributable to the parent? (ii) how frequently do these transactions occur?

Other than IFRS 3.2(b), there is currently no guidance on the acquisition of a group of assets that do not constitute a business. These transactions are common in certain industries, and more widespread with the introduction of the new definition of a business.

We have developed our own guidance to address the gap, covering the following areas:

— determination of cost

— accounting for previously held interests

— measurement of ordinary NCI

— determination of what is part of an asset acquisition (including accounting for pre-existing relationships and mandatory replacement of acquiree awards in an asset acquisition)

Because the issue (and any consequential pronouncement) would fall outside the scope of IFRS 10, IFRS 11 and IFRS 12, we do not believe that it should be dealt with by this PIR. Nonetheless, we remain supportive of the Board developing more guidance for this area.

Question 6
In your experience: (a) how widespread are collaborative arrangements that do not meet the IFRS 11 definition of 'joint arrangement' because the parties to the arrangement do not have joint control? Please provide a description of the features of these collaborative arrangements, including whether they are structured through a separate legal vehicle. (b) how do entities that apply IFRS Standards account for such collaborative arrangements? Is the accounting a faithful representation of the arrangement and why?

We have experienced that these arrangements are more common in certain jurisdictions (e.g. Canada) and industries (e.g. biotech, mining and exploration).

One common arrangement we have seen involves the investor having an interest in a non-corporate arrangement along with two or more other investors and decisions only require a majority vote (by any combination of those investors) – i.e. not jointly controlled by all of the investors.

There is no IFRS Standard that applies to such transactions. To determine the most appropriate accounting in accordance with IAS 8, we generally:

1. consider whether the investee is structured through an entity - equity accounting under IAS 28 would be ruled out if there is no entity/equity, even if significant influence exists; then
2. consider the rights and obligations of the investor.
   — If the arrangement is not structured through an entity, IFRS 11 may be the most relevant principles to analogise to; however,
   — depending on the specific facts and circumstances, it may be more appropriate to apply the relevant IFRS Standard to each right (asset) and obligation (liability).

However, because the determination ultimately involves the application of IAS 8 and judgement on what accounting would be the most appropriate, we are aware that diversity in practice exists. For example, we are aware of some instances where IAS 28

accounting has been applied for a collaborative arrangement that has no formal vehicle or equity structure.

We therefore recommend that the Board consider developing guidance in this area to reduce diversity in practice. We would also like to highlight that any guidance so developed should also address the subsequent accounting for these arrangements.

Question 7
In your experience: (a) how frequently does a party to a joint arrangement need to consider other facts and circumstances to determine the classification of the joint arrangement after having considered the legal form and the contractual arrangement? (b) to what extent does applying paragraphs B29–B32 of IFRS 11 enable an investor to determine the classification of a joint arrangement based on 'other facts and circumstances'? Are there other factors that may be relevant to the classification that are not included in paragraphs B29–B32 of IFRS 11?

We have commonly seen preparers applying the "Other facts and circumstances" test, and we find the existing guidance a helpful starting point in determining the appropriate classification of a joint arrangement.

However, we also acknowledge that the assessment can still involve significant judgement as evidenced by the amount of discussion items that reached the IFRIC. Based on these discussions and our own interpretation of the Standard, we have developed our own guidance on how to apply this test in various situations.

Question 8
In your experience: (a) to what extent does applying the requirements in IFRS 11 enable a joint operator to report its assets, liabilities, revenue and expenses in a relevant and faithful manner? (b) are there situations in which a joint operator cannot so report? If so, please describe these situations and explain why the report fails to constitute a relevant and faithful representation of the joint operator's assets, liabilities, revenue and expenses.

In general, we find the existing requirements of IFRS 11 appropriate in reflecting a joint operator's stake. However, we are aware that complications can arise in situations involving:

— *Disproportionate off-take*

In some instances, the joint operators' rights and obligations in respect of the joint arrangement's output may not align with their ownership interest in the arrangement. There could be many reasons for this, as the IFRIC observed in its

March 2015 decision, and consequently an indefinite number of possible accounting treatments exist.

In our experience, arrangements involving disproportionate sale of outputs have often been based on market prices to ensure a fair sharing of the economic benefits amongst the parties. One approach we have accepted in these situations is for each joint operator to recognise assets, liabilities and expenses in proportion to its ownership interest and to treat the disproportion in output taken as a sale between it and the other joint operators.

— *Output received and sold differs from output to which the joint operator is entitled*

A joint operator often has the right to receive a fixed proportion of the output arising from the joint operation and is obliged to pay for the same fixed proportion of production costs incurred. For operational reasons, however, the output received and sold to a third party customer in a particular period may differ from the proportion to which the joint operator is entitled.

It was helpful that the IFRIC explained in its March 2019 decision that where such situations arise, the joint operator should recognise revenue based on the amount that is received and sold to its customers in each period, rather than based on the amount of the output to which it is entitled.

Please note, however, that our support for the current 'proportionate consolidation' requirement is based on our interpretation that the amounts recognised should reflect the exposure the investor has from its involvement in the joint operation. We believe this approach is also consistent with the 'assessment of other facts and circumstances' contained in IFRS 10.B29 – B32. We continue to disagree with the IFRIC's March 2019 decision on *Liabilities in relation to a joint operator's interest in a joint operation*, one of our main concerns being that it unduly reads into the lease contract in isolation and disregards the overarching contractual arrangement the parties have agreed to. Please refer to our comment letter on the Tentative Agenda Decision for more detail.

Question 9
In your experience: (a) to what extent do the IFRS 12 disclosure requirements assist an entity to meet the objective of IFRS 12, especially the new requirements introduced by IFRS 12 (for example the requirements for summarised information for each material joint venture or associate)? (b) do the IFRS 12 disclosure requirements help an entity determine the level of detail necessary to satisfy the objective of IFRS 12 so that useful information is not obscured by either the inclusion of a large amount of detail or the aggregation of items that have different characteristics? (c) what additional information that is not required by IFRS 12, if any, would be useful to meet the objective of IFRS 12? If there is such information, why and

	how would it be used? Please provide suggestions on how such information could be disclosed.
(d)	does IFRS 12 require information to be provided that is not useful to meet the objective of IFRS 12? If yes, please specify the information that you consider unnecessary, why it is unnecessary and what requirements in IFRS 12 give rise to the provision of this information.

We believe investor groups, preparers and securities regulators would be better placed to provide feedback on where the information needs are and where IFRS 12 needs to be improved.

A general note of our experience, however, is that:

— we have seen good compliance with the requirements of IFRS 12 for material interests; and

— there appear to be some challenges with preparers providing information for unconsolidated structured entities.

We also note that enhancing disclosures is one possible solution the Board could consider in respect of the "loss of information" issue in Question 4(b) on investment entity subsidiaries.

Question 10
Are there topics not addressed in this Request for Information, including those arising from the interaction of IFRS 10 and IFRS 11 and other IFRS Standards, that you consider to be relevant to this Post-implementation Review? If so, please explain the topic and why you think it should be addressed in the Post-implementation Review.

Outlined below are two issues which we believe should also be on the Board's priority list to address in relation to this PIR.

Interaction with other Standards

Since the introduction of IFRS 15 and 16, we have seen a considerable number of issues that raise the question of how IFRS 10 and 11 are intended to be applied in conjunction with these Standards. We are concerned to see recent discussions trending towards giving precedence to the newer Standards.

As indicated by the various IFRIC submissions, these types of issues are widespread. Outlined below are examples of conflicts between the Standards that could result in outcomes of significant differences:

— IFRS 15 *Revenue from Contracts with Customers*

IFRS 10 and IFRS 15 differ in many respects, including the derecognition criteria, accounting for proceeds, (e.g. gross vs. net presentation, point-in-time vs. over time, accounting for contingent/variable consideration) and measurement of retained interest.

— IFRS 16 *Leases*

Because of the interaction between IFRS 15 and IFRS 16, IFRS 16 accounting may also be affected by the same IFRS 10 vs. IFRS 15 issue explained above.

In addition, the recent IFRIC discussion in February 2021 on *Sale and Leaseback of an Asset in a Single-Asset Entity* has highlighted another example of where there are competing requirements between IFRS 10 and another Standard.

However, the interaction issue is not just restricted to the new Standards. The accounting on sale or contribution of assets between an investor and its equity-accounted investee remains unresolved since the indefinitely deferred amendments in 2014.

Although they may not directly affect the application of IFRS 10 and 11, there are also other 'interaction' related issues that have an impact on the consistency and relevance of IFRS financial statements at a higher level:

— With its lack of clearly defined principles, there is continued confusion amongst practitioners as to whether the equity method is intended to represent a one-line consolidation or a measurement method. IFRS 11 further highlights this existing challenge with its requirement to apply equity method accounting to joint ventures.

  We therefore welcome the reignition of the Board's work on the equity method project and look forward to the long-standing issue of the sale or contribution of assets into an IAS 28 investment being revisited and resolved as part of that project (or this PIR).

— We also note that the IFRIC's March 2019 decision – aside from the interpretation issues referred to above in Question 8 – only deals with leases in joint operations. Lease arrangements are much more widespread, and we believe a comprehensive framework needs to be established for lease arrangements to cater for various joint arrangement structures.

Accounting for non-controlling interests (NCI)

In our comment letter to the DP/2020/1 *Business Combinations – Disclosures, Goodwill and Impairment,* we noted our concerns around the lack of a clear and comprehensive framework to clarify the accounting for NCI and some of the application challenges we have encountered. Many of those comments are inevitably transferable here.

We also note that accounting for call and put options has been a challenge. Once it has been determined that a party has control over the investee (having taken into account the potential voting rights), IFRS 10 provides no guidance on how call options should be accounted for. Even with IAS 32 providing some basis, we are aware of the diversity in practice around accounting for written put options and forwards.

Given the prevalence of these instruments, we believe there is an urgent need for a framework on how to account for put and call options, covering both the holder and issuer's perspective. Whilst we acknowledge that the accounting from the holder's

perspective may be clear, the interaction with the requirements in IFRS 10 around potential voting rights appears to be adding complexity. One simple example of this is the question of when the holder should cease derivative accounting for the option: should it be at the point when the right becomes substantive, or when it is actually exercised?

If the Board decides that some aspects will continue to be dealt with by the Board's project on financial instruments with characteristics of equity, we would like to again highlight the need to consider the implications on IFRS 10 and NCI accounting.

Another area of complexity we have experienced is when there has been a change in NCI whilst retaining control. IFRS 10.23 and B96 require an adjustment to be made to reflect the changes in their relative interests, but the Standard does not provide further guidance on the mechanics of how such adjustment should be made. For example:

- If an entity has elected to measure NCI using the proportionate interest approach, should subsequent changes result in proportionate attribution of net assets that includes goodwill (which initially wasn't attributed to NCI)?
- Further complications arise if there are impairment losses subsequent to the change in the shareholding composition:
  - For situations where NCI was initially measured using the proportionate interest approach, would the entity have to use the same method used in the preceding example to attribute net assets for the allocation of the impairment charge?
  - For situations where NCI was measured at fair value, it is unclear as to which relative fair value information should be used for the allocation – e.g. fair values at the date of change in shareholding structure, or at the date of impairment?

We also note that attribution of profits could become complicated when there is a complex structure with multiple classes of equity with different rights. IFRS 10.B94 simply states that an entity shall attribute the profits amongst the owners of the parent and non-controlling interest. Other than the brief guidance in B95 relating to outstanding cumulative preference shares, there is no further guidance on how the attribution should be made.

It is also not uncommon to see a parent and the NCI entering into an arrangement to share profits in a manner that does not reflect their respective ownership interest. However, IFRS 10 does not provide guidance on how such arrangements should be reflected.

Also see Appendix B for other issues associated with the implementation of IFRS 10, IFRS 11 and IFRS 12.

Appendix B

Other issues related to implementation of IFRS 10, IFRS 11 and IFRS 12

IFRS 10

— *Continuous assessment for control*

IFRS 10.B80 – B85 requires assessment of control to be performed on a continuous basis, whenever there has been a substantial change to the facts and circumstances. These requirements have proven to not only recast the questions that arose on initial assessment, but also entail application challenges of their own.

— *Continuation of the same issues encountered at initial recognition*

Each time such reassessment is made, many of the issues in Question 2 (identifying relevant activities, substantive vs. protective rights, control without majority) encountered at the initial transaction may resurface. The same would be expected of the issues identified in Question 3, where those areas (principal vs. agent, de facto agency) are relevant to the arrangement at hand. Therefore, it is important for the Standard to provide clear guidance on the areas covered by those two sets of foundational questions.

— *Call options with periodic exercise windows*

Closely related to question 2(b) above, some call options grant the holder multiple windows of opportunity to exercise their rights and obtain control over the investee. With these instruments, it is often unclear as to when or how long the holder should be considered as having substantive rights.

We are also aware of the spill-over effect this has on determining the relevant activities of the investee, giving rise to mixed practices around making the assessment over the entire life of the investee, versus considering only the activities that take place around the time of the exercise window. All these issues could lead to significantly different accounting outcomes, with control and loss of control being recognised at different times.

— *Market conditions*

Another issue we note is the lack of clarity around what the Board's intention is with "market conditions" in IFRS 10.B85. The first half of the paragraph suggests that market conditions may be 'exceptions' to the general rule and would not automatically trigger a reassessment of control or principal vs. agent status. However, the paragraph then adds an 'exception to this exception' by stating that a reassessment would nevertheless be required if one or more of the three elements of control have been affected – i.e. put together, it does not appear that the Standard requires any different treatment for market conditions in comparison to any other changes.

— *Control assessment in situations involving independent board members*

In some jurisdictions, local law may require some (or all) of the board members to be independent, to 'act in the best interest of the entity'. The view we have taken in these situations is that the investor – even if it may be legally prohibited from directing the decisions itself – would generally retain power if it has the rights to appoint or remove a majority of the board, including any independent board members.

There are also other jurisdictions that require layers of governance. A careful evaluation of how decisions about the relevant activities are made will need to be made, in light of all relevant facts and circumstances.

— *Trusts established to carry out certain activities*

In some jurisdictions, trust structures are often used to carry out certain activities which are incidental to the founding entity's principal activities. In many cases, it is clear that the trust is only intended to be an extension of the entity's own operations and its set up easily satisfies IFRS 10's criteria for control (e.g. employee share trust which relies on the entity's direction and funding).

In other instances, however, the identification of the trust's relevant activities, whether the entity has power over those relevant activities and the returns the entity is exposed to are not straightforward. These issues have been particularly evident with trusts that have been established by an entity to serve public interest, either voluntarily out of corporate social responsibility or due to the requirements of local legislation. We are also aware that these complexities are giving rise to diversity in practice.

IFRS 11

— *Accounting for joint operations in the books of the joint operation*

Joint operations can be structured through a vehicle, and there may be reasons for financial statements to be prepared for a joint operation (e.g. companies/partnership law, to obtain financing). However, there is currently no guidance that specifically governs the accounting by the joint operation.