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EUROPEAN COMMISSION
BUDGET

The Accounting Officer of the Commission

Brussels
BUDG.DGA1/RAB

Subject: Comment letter on Exposure Draft 75 'Leases'/ Response to Request for Information 'Concessionary Leases and Other Arrangements Similar to Leases'

Dear Mr Carruthers,

I welcome the opportunity to comment on the above mentioned Exposure Draft 75 'Leases' ('ED'), and to provide you with our response to the Request for Information 'Concessionary Leases and Other Arrangements Similar to Leases'.

The comments are made in my capacity as the Accounting Officer of the European Commission as well as more than 20 other EU entities (see list in Annex 1).

I am responsible for, amongst other tasks, the preparation of the consolidated annual accounts of the European Union ('EU'), which comprise more than 50 European institutions, agencies and European bodies with an annual budget of more than EUR 140 billion, as well as the adoption of the accounting rules applicable by entities preparing annual accounts in the EU context (the 'EU Accounting Rules')[1].

According to the Financial Regulation applicable to the general budget of the Union, the EU Accounting Rules applied to prepare the EU consolidated annual accounts, as well as the separate annual accounts of the consolidated entities, should be based on internationally accepted accounting standards for the public sector, i. e. the IPSAS.

I am pleased to provide you with my comments with the aim of improving the transparency, relevance and comparability of the financial statements across jurisdictions.

I generally support the IPSASB's approach to the convergence of public sector accounting standards with International Financial Reporting Standards ('the IFRS') applied in the private sector, whenever the nature of the transaction is economically similar, and any public sector specific issue is addressed separately.

[1] For the sake of clarity, the views presented in this comment letter do not represent the views of the EU Member States, or the views of the European Public Sector Accounting Standards ('EPSAS') Team, and are without prejudice to future decisions which may be taken in the context of the EPSAS project.

Mr Ian Carruthers
Chairman
International Public Sector Accounting Standards Board (IPSASB)

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111
Office: BRE2 13/534 - Tel. direct line +32 229-50848

Maria-Rosa.Aldea-Busquets@ec.europa.eu

I thus agree with the proposed approach to develop a Standard aligned with IFRS 16 as well as the proposed punctual modifications in order to adjust it to the specific requirements of the public sector. Please find or comments on the questions raised in the Exposure Draft in Annex 2.

As regards the Request for Information 'Concessionary Leases and Other Arrangements Similar to Leases', I am pleased to provide you with the most prevalent fact patterns we have identified after liaising with EU Institutions and EU Agencies (see Annex 3). We hope that our contribution will support you in Phase II of the leases project.

If you would like to discuss our comments further, please do not hesitate to contact me.

[e-signed]

Rosa ALDEA BUSQUETS

Enclosure: Annex 1: List of entities supporting the comment letter
Annex 2: Response to the questions raised in the ED
Annex 3: Responses to Request for Information

c.c.: Nicole Smith, Director BUDG C,
Derek Dunphy, Lars Ruberg, Vyara Ivanova, BUDG C2

Annex 1 – List of entities supporting comment letter

Entities under the responsibility of the Accounting Officer of the European Commission

European Institutions
European External Action Service
European Data Protection Supervisor
European Agencies
Agency for the Cooperation of Energy Regulators (ACER)
European Union Agency for Law Enforcement Training (CEPOL)
Body of European Regulators for Electronic Communications (BEREC Office)
European Institute for Gender Equality (EIGE)
European Agency for Safety and Health at Work (EU-OSHA)
European Global Navigation Satellite Systems Agency (GSA)
European Joint Undertakings
Bio-based Industries Joint Undertaking (BBI-JU)
Shift2Rail Joint Undertaking (Shift2Rail JU)
Fuel Cells and Hydrogen Joint Undertaking (FCH JU)
Single European Sky ATM Research Joint Undertaking (SESAR JU)
Innovative Medicines Initiative Joint Undertaking (IMI JU)
Electronic Components and Systems for European Leadership Joint Undertaking (ECSEL JU)
The European High Performance Computing Joint Undertaking (EuroHPC)
EU Trust Funds
EU Emergency Trust Fund for Africa (EUTF Africa)
EU Trust Fund Bêkou for the Central African Republic (EUTF Bêkou)
EU Trust Fund for Colombia (EUTF Colombia)
EU Regional Trust Fund in Response to the Syrian crisis (EUTF Madad)
Other entities
European Development Fund
European Institute of Innovation & Technology (EIT)

ANNEX 2 – Response to the questions raised on the ED

EXPOSURE DRAFT 75, LEASES

Specific Matter for Comment 1:

The IPSASB decided to propose an IFRS 16-aligned Standard in ED 75 (see paragraphs BC21–BC36). Do you agree with how the IPSASB has modified IFRS 16 for the public sector (see paragraphs BC37–BC60)? If not, please explain your reasons. If you agree, please provide any additional reasons not already discussed in the Basis for Conclusions.

Response:

As already indicated in our response to the questions raised on Exposure Draft 64, Leases dated 4 July 2018, we consider that the IPSAS standards should be as close as possible to the IFRS standards, provided that there is no public sector specific reason to do otherwise. Against this background, we welcome the IPSASB's approach to align Exposure Draft 75 with the requirements in IFRS 16 as much as possible, with deviations limited to areas where the specifics of public and private sector transactions diverge.

More specifically, we agree with the following modifications the IPSASB has applied on IFRS 16 to make it more relevant to the public sector:

- *No specific scope exclusion for concessionary leases:*

  We agree with the proposal not to provide an explicit scope exclusion for concessionary leases, as ED 75 is based on an alignment approach and IFRS 16, in line with its private-sector character, does not foresee such a scope exclusion. In our view, the phased approach underlying the project, with Phase 1 being limited to the IFRS 16 alignment and Phase 2 adding public-sector specific issues such as concessionary leases, is sufficiently clear and does not warrant a formal scope exclusion within the authoritative standard text.

  At the same time, we agree with the proposed text in the Basis for Conclusions clarifying that lease incentives paid by the lessor to the lessee to entice the lessee to enter into the lease do not necessarily indicate that a lease is at below-market rates (ED 75, BC39). Adding this clarification will support public-sector entities in analysing the actual nature of the leases (or lease-type arrangements) they have entered into, and to account for them accordingly.

- *Adding Application Guidance to determine whether an arrangement is contractual or non-contractual:*

  We agree with the addition of specific Application Guidance to support entities in determining whether an arrangement is contractual or non-contractual. We consider it useful to refer to the substance over form principle, as arrangements in the public sector may take a variety of forms not all of which fall under the formal definition of a contract.

  We also agree with the proposal not to use the term 'binding arrangement' as that would broaden the scope beyond the set of arrangements defined in AG3.

- *Not including IFRS 16 requirements for manufacturer or dealer lessors*

  We agree with the decision not to include the IFRS 16 requirements for manufacturer or dealer lessors in the proposed standard, as these arrangements are not relevant for most, if not all, public sector entities. Consequently, we also agree with the corresponding modification of the IFRS 16 definition of 'initial direct cost'.

Specific Matter for Comment 2:

The IPSASB decided to propose the retention of the fair value definition from IFRS 16 and IPSAS 13, Leases, which differs from the definition proposed in ED 77, Measurement (see paragraphs BC43-BC45). Do you agree with the IPSASB's decision? If not, please explain your reasons. If you agree, please provide any additional reasons not already discussed in the Basis for Conclusions.

Response:

We welcome the decision of the IPSASB to retain the fair value definition from IFRS 16 and IPSAS 13.

In our view, retaining the same fair value approach as in IPSAS 13 and IAS 17 will contribute to the smooth transition to the new standard. It will avoid implementing significant changes to the current fair value approach applied by public sector entities in this context, and thus additional work and costs without resulting in more benefits for the users of financial statements.

Specific Matter for Comment 3:

The IPSASB decided to propose to refer to both "economic benefits" and "service potential", where appropriate, in the application guidance section of ED 75 on identifying a lease (see paragraphs BC46–BC48). Do you agree with the IPSASB's decision? If not, please explain your reasons. If you agree, please provide any additional reasons not already discussed in the Basis for Conclusions.

Response:

We welcome the decision of the IPSASB to add 'service potential' to 'economic benefits' in the application guidance section on identifying a lease. Notwithstanding the alignment character of the project, the broader asset definition underlying the IPSAS needs to be reflected in the standard to avoid arrangements meeting the definition of a lease being considered out of scope. The additional reference to 'service potential' ensures this objective is met.

Additional comments for the IPSASB's consideration:

Similarly to IFRS 16, the proposed ED 75 allows public sector entities to apply a recognition exemption for leases for which the underlying asset is of low value (ED 75.6(b)). The Basis for Conclusions further states that public sector entities 'should use a threshold for determining leases of low-value assets, considering the materiality of leasing transactions in relation to their financial statements' (ED 75, BC53). Unlike IFRS 16, ED 75 does not provide guidance on a specific monetary amount in relation to this threshold but it states that in assessing materiality, public sector entities should 'consider whether the omission of information could influence users' assessments of accountability or their decision-making' (ED 75, BC53).

We welcome the IPSASB's decision to allow a low-value recognition exemption for leases in line with IFRS 16. However, we note that ED 75 could be more explicit on how the low-value exemption relates to the general materiality threshold applied to the recognition of assets. More specifically, we think ED 75 should clarify that the specific materiality assessment made in the context of the low-value exemption might lead to a higher materiality threshold than that applicable to the recognition of assets in general. This seems also be indicated by the proposed application guidance, which highlights that 'the assessment is not affected by the size, nature or circumstances of the lessee', and that, accordingly, 'different lessees are expected to reach the same conclusions about whether a particular underlying asset is of low value.' (AG 5).

We therefore suggest, for the avoidance of doubt and clarity of the application, that more explicit guidance on the relation between the specific materiality threshold in the context of the low-value exemption and the general materiality threshold for the recognition of assets is added to the standard. Such guidance would avoid variety in interpretations across public sector entities and would ensure that the new leases standard will stay closely aligned with IFRS 16.