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Deutsches Rechnungslegungs Standards Committee e.V.

Accounting Standards Committee of Germany

DRSC

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Berlin, XX March 2021

Dear Hans,

IASB Exposure Draft ED/2020/4 *Lease Liability in a Sale and Leaseback*

On behalf of the Accounting Standards Committee of Germany (ASCG) I am writing to comment on the Exposure Draft ED/2020/4 *Lease Liability in a Sale and Leaseback* issued by the IASB on 27 November 2020 (herein referred to as 'ED').

We welcome the opportunity to comment on the ED proposals and appreciate the IASB's effort to develop requirements that limit the gain or loss to be recognised by a seller-lessee resulting from a sale and leaseback transaction.

Nonetheless, we do not support the proposals of the ED, as we think that the proposed requirements are too complex a solution for the intended prevention of full profit recognition for leasebacks with variable payments that do not depend on an index or a rate.

In our opinion, it would make more sense to review this topic as part of the upcoming post-implementation review (PiR) of IFRS 16 *Leases* than to deal with it as a standalone amendment. However, if, due to a lack of guidance in the standard and the diversity in practice identified, the IASB intended to provide a quicker solution before the PiR (and potentially only for the short term), such a solution should be significantly simpler than the proposals of the ED.

As an alternative, we propose simply considering the deferral of the profit attributable to the retained interest in the right-of-use asset over the expected term of the leaseback (see our answer to Question 1).

Our responses to the questions of the ED are laid out in the appendix to this letter. If you would like to discuss our comments further, please do not hesitate to contact Peter Zimniok (zimniok@drsc.de) or me.

Yours sincerely,

Sven Morich

Executive Director

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Appendix – Answers to the questions in the ED

Question 1 - Measurement of the right-of-use asset and lease liability arising in a sale and leaseback transaction (paragraphs 100(a)(i), 100A and 102B of the [Draft] amendment to IFRS 16)

The [Draft] amendment to IFRS 16 Leases applies to sale and leaseback transactions in which, applying paragraph 99 of IFRS 16, the transfer of the asset satisfies the requirements to be accounted for as a sale of the asset. The [Draft] amendment proposes:

(a) to require a seller-lessee to determine the initial measurement of the right-of-use asset by comparing the present value of the expected lease payments, discounted using the rate specified in paragraph 26 of IFRS 16, to the fair value of the asset sold (paragraph 100(a)(i));

(b) to specify the payments that comprise the expected lease payments for sale and leaseback transactions (paragraph 100A); and

(c) to specify how a seller-lessee subsequently measures the lease liability arising in a sale and leaseback transaction (paragraph 102B).

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you suggest instead and why.

We do not support the proposals of the ED that would specify the method that a seller-lessee uses in initially measuring both, the right-of-use asset, and the liability arising in a sale and leaseback transaction and the way how the seller-lessee subsequently measures that liability.

While we support the intention of limiting the gain or loss to be recognised by a seller-lessee resulting from a sale and leaseback transaction, especially in case of a sale and leaseback transaction that includes variable lease payments that do not depend on an index or a rate, we are critical of the specific accounting proposed, both for conceptual and implementation reasons. Conceptually, the proposed approach would run against the principle that only fixed payments are to be recognised when measuring the liability (IFRS 16.27). A possible spill-over effect of this (draft) amendment should also be taken into account. With regard to the practicability of the proposals, difficulties may arise in relation to the necessary differentiation of leased assets according to the type of underlying contract as well as a possible high level of measurement uncertainty when estimating expected payments.

Kommentiert [PZ1]: Der Formulierungsvorschlag basiert auf Anmerkungen des FA in seiner 95. Sitzung (mgl. Ausstrahlungswirkung des Änderungsentwurfs; Schwierigkeiten in Bezug auf die Praktikabilität).
Werden diese Bedenken mehrheitlich geteilt?
Kann die Argumentation ggf. ausgebaut werden?

Therefore, we think that the proposed requirements are too complex a solution for the intended prevention of full profit recognition for leasebacks with variable payments that do not depend on an index or a rate. Further, the proposed amendments represent a fundamental interference with the general measurement principles of the standard, that does not seem justified in view of the upcoming post-implementation review (PiR) of IFRS 16.

In our opinion, it would make more sense to review this topic as part of the upcoming PiR, since for some sale and leaseback transactions there is no guidance in the literature so that a consistent concept for 'regular' leases and leases resulting from sale and leaseback transactions could be developed in the course of the PiR. The analysis to be performed should include the implicit conflict existing in IFRS 16 between its sale and leaseback requirements and its definition of lease payments and related lease liability, i.e. the exclusion of variable

payments linked to future performance from the definition of lease payments, and the sale and leaseback requirements being an exception to the basic lease model, generally.

However, if, due to the lack of guidance in the standard and the diversity in practice identified, the IASB intended to provide a quicker solution before the PiR (and potentially only for the short term), such a solution should be significantly simpler than the proposals of the ED and not as fundamental.

As an alternative, we propose simply considering the deferral of the profit attributable to the retained interest in the right-of-use asset over the expected term of the leaseback. In this case, the general requirements of IFRS 16 for initial and subsequent measurement would apply to both the right of use resulting from the leaseback and the resulting lease liability, and no changes to the general measurement principle in IFRS 16 would be necessary. In addition, the 'excess' profit recognised at the time of the sale and leaseback transaction would be deferred and recognised separately from the lease liability as deferred income and released on a straight-line basis over the expected term of the leaseback (which may be modified at a later point in time). In addition to the significant reduction in complexity that could be achieved, this proposal would, in our opinion, provide more decision-useful information.

Question 2 - Transition (paragraph C20E of the [Draft] amendment to IFRS 16)

Paragraph C20E of the [Draft] amendment to IFRS 16 proposes that a seller-lessee apply the [Draft] amendment to IFRS 16 retrospectively in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* to sale and leaseback transactions entered into after the date of initial application of IFRS 16. However, if retrospective application to a sale and leaseback transaction that includes variable lease payments is possible only with the use of hindsight, the seller-lessee would determine the expected lease payments for that transaction at the beginning of the annual reporting period in which it first applies the amendment.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you suggest instead and why.

We do not agree with the proposed transitional provisions, as we think that, due to the significant measurement uncertainty and the necessary judgement associated with variable lease payments, the requirements proposed by the IASB or, if applicable, the alternative proposed by the ASCG should only apply to sale and leaseback transactions that were contracted in the current reporting period or the period immediately preceding it and should not extend further to existing legacy contracts.