

AGENDA

IFRS Foundation Trustees meeting – Due Process Oversight Committee

Public call	December 2019	Agenda Ref 1
Contacts	Richard Thorpe Samuel Prestidge	

Correspondence received on due process matters

Details of correspondence and due process protocol

1. This paper updates the Due Process Oversight Committee (DPOC) on the recent correspondence received relating to the Agenda Decision—*Lease Term and Useful Life of Leasehold Improvements*. The IFRS Interpretations Committee voted to finalise that Agenda Decision at its meeting on 26 November 2019.
2. As previously advised, the Chair of the DPOC received two letters dated 29 November 2019:
 - (a) one from Acteo, Afep and Medef (three representative bodies of French preparers), reproduced in Appendix A attached to this paper; and
 - (b) one from the 100 Group (a representative body of finance directors of large UK preparers), reproduced in Appendix B attached to this paper.
3. Section 8 of the *Due Process Handbook (Handbook)* specifies a Protocol for Trustee action for perceived breaches of due process. The immediate steps that we have taken, and are taking, in accordance with this Protocol are as follows:
 - (a) Paragraph 8.3 of the *Handbook* stipulates that we should post to the DPOC pages on the IFRS Foundation’s website ‘each complaint, together with the name and contact details of the complainant’. We posted those two letters to the [website](#) on 4 December.
 - (b) Paragraph 8.4 requires a report from the appropriate technical staff in response to the complaint to be ‘posted on the DPOC web pages and...then considered by the DPOC at one of its meetings at which the Chair and/or Vice-Chair of the IASB are present’. The attached paper represents that report for discussion at the DPOC meeting on 16 December. It sets out the

background to the Agenda Decision—*Lease Term and Useful Life of Leasehold Improvements*, the due process steps taken leading to the vote on the Agenda Decision, and a summary and analysis of the correspondence received on that agenda decision.

- (c) Paragraph 8.4 also stipulates that the DPOC may request additional information from the Director of Trustees before finalising a response to the complainant. ‘The response of the DPOC, usually in the form of a letter to the complainant, is also posted on the DPOC web pages’.

IFRS Foundation staff conclusion

4. IFRS Foundation staff have reviewed the attached staff report in response to the two letters as well as the paper that the technical staff provided to Interpretations Committee members in advance of their November 2019 meeting. IFRS Foundation staff are of the view that Interpretations Committee members were provided with sufficient information to make informed decisions about the lease term question in hand. IFRS Foundation staff are further of the view that the technical staff paper appropriately summarised and analysed the comments received in compliance with the *Handbook*.
5. Accordingly, IFRS Foundation staff conclude that the staff papers prepared for discussion by the Interpretations Committee on lease term comply with the applicable due process requirements.
6. In reaching the conclusions above, IFRS Foundation staff also acknowledge that two matters raised in the correspondence to the DPOC—the simple-majority voting requirement of the Interpretations Committee and whether different readings of IFRS Standards by stakeholders should be part of the criteria for standard-setting—relate to matters currently under review by the DPOC in connection with revisions to the *Handbook*. In particular, the DPOC is currently considering possible steps to enhance the due process relating to agenda decisions and, in relation to that, will consider the Interpretations Committee voting requirement and the criteria for standard-setting (refer to Agenda Paper 2 for further information).

Questions for the DPOC

7. The DPOC needs to determine whether the development of the Agenda Decision on lease term has followed the applicable existing due process requirements.

Questions for the DPOC

1. Does the DPOC agree that the existing due process requirements have been met, and that the letter to the complainants should explain this?
2. Does the DPOC authorise the Chair of the DPOC to respond to the complainants as set out above? It is contemplated that this letter would reference the ongoing review of the *Handbook* and the DPOC's consideration of the due process relating to agenda decisions.
3. Does the DPOC agree that the staff should proceed with publishing the Agenda Decision—*Lease Term and Useful Life of Leasehold Improvements*?

AGENDA

IFRS Foundation Trustees meeting – Due Process Oversight Committee

Public call	December 2019	Agenda Ref 1A
Contacts	Patrina Buchanan Henry Rees	

Purpose

1. The purpose of this paper is:
 - (a) to provide background to the Agenda Decision—*Lease term and Useful Life of Leasehold Improvements*, including the process followed by the Interpretations Committee (paragraphs 3–13);
 - (b) to summarise the comments received in the two letters to the chair of the DPOC (paragraphs 14–19); and
 - (c) to consider the points raised by the complainants in analysing whether the applicable due process requirements have been met (paragraphs 20–34).
2. The paper has three appendices:
 - (a) Appendix A—letter received from Acteo, Afep and Medef;
 - (b) Appendix B—letter received from the 100 Group; and
 - (c) Appendix C—additional information about the lease term requirements in IFRS 16 *Leases*.

Background to the Agenda Decision, including the process followed by the Interpretations Committee

3. Earlier in 2019, the Interpretations Committee received a question on lease term in IFRS 16. The question asked how to determine the enforceable period of a cancellable

or renewable lease in the context of determining lease term and, specifically, whether that determination includes consideration of the broader economics of the contract¹.

4. Appendix C to this paper includes additional information about the lease term requirements in IFRS 16.

The Interpretations Committee's process

June 2019

5. The Interpretations Committee first discussed the question on lease term at its June 2019 meeting. For that meeting, we (the staff) prepared a paper that provided a summary of the matter and presented our research and analysis—[agenda paper 3](#) for the June 2019 meeting. In that paper, we concluded that the principles and requirements in IFRS 16 provide an adequate basis for an entity to determine the lease term of cancellable and renewable leases as described in the submission. We therefore concluded that the criteria for narrow-scope standard-setting in paragraphs 5.16–5.17² of the *Due Process Handbook (Handbook)* were not met, and recommended not to add the matter to the standard-setting agenda.
6. The Interpretations Committee agreed with the staff recommendation (12 of 14 members present voted for the staff recommendation). Accordingly, the Interpretations Committee published a tentative agenda decision that:
 - (a) explained its tentative conclusion not to undertake standard-setting. This was because it concluded that the principles and requirements in IFRS 16 provide an adequate basis for an entity to determine the lease term of cancellable and renewable leases (as described in the submission); and
 - (b) included explanatory material that explained how IFRS 16 applies in determining the enforceable period of such cancellable and renewable

¹ The submitter also asked a second question about the useful life of non-removable leasehold improvements attached to the asset being leased under a cancellable or renewable lease. The Agenda Decision in question includes explanatory material on both lease term and the useful life of leasehold improvements. However, the letters from Acteo, Afep and Medef and the 100 Group refer only to the question on lease term. Consequently, this paper includes no further information about the question submitted on the useful life of leasehold improvements.

² If the principles and requirements in IFRS Standards provide an adequate basis for an entity to determine the appropriate accounting, then standard-setting is not needed to improve financial reporting through the elimination, or reduction, of diverse reporting methods (paragraph 5.16(b) of the *Handbook*).

leases. Specifically, the material explained that an entity considers the broader economics of the contract when determining the enforceable period of the lease, and not only contractual termination payments,. The objective of including the explanatory material was to proactively support consistent application of the lease term requirements in IFRS 16.

7. The Tentative Agenda Decision was published for comment for 60 days; the comment period ended on 20 August 2019.

November 2019

8. The Interpretations Committee considered the comments received on the Tentative Agenda Decision at its November meeting. The Interpretations Committee did not discuss the matter at its September 2019 meeting to allow for appropriate and thorough consideration of all 31 comment letters received.
9. The 31 comment letters came from individuals, national standard-setters, accounting firms, accounting associations, preparers, representative bodies of preparers and an organisation representing a group of regulators. Those comment letters included a letter from Acteo, Afep and Medef and a letter from the 100 Group. Of the 31 comment letters received, nine responses agreed with the Committee’s technical analysis and tentative conclusion not to undertake standard-setting, whilst 22 disagreed. 17 of those who disagreed suggested undertaking standard-setting on lease term. All comment letters were made available on the IFRS Foundation website, and were also made available as a PDF document for ease of reference for Interpretations Committee members.
10. The staff paper prepared for discussion at the November meeting summarised the comments received and analysed those comments—see [agenda paper 4](#) for the November 2019 meeting³. In that paper, having thoroughly analysed the comments received, we noted that we continued to hold the view that the principles and requirements in IFRS 16 provide an adequate basis for an entity to determine the lease term of cancellable and renewable leases (as described in the submission). However, unusually we did not include a recommendation for the Interpretations Committee.

³ This paper has been provided to DPOC members for their information.

Rather, we said if the Interpretations Committee were to agree with our technical analysis, it could either:

- (a) finalise the Agenda Decision, if it concluded that the principles and requirements in IFRS 16 provide an adequate basis; or
 - (b) recommend narrow-scope standard-setting (eg an annual improvement), if it concluded that the principles and requirements do not provide an adequate basis and, thus, that standard-setting is needed to address the matter⁴.
11. We did not include a recommendation (as we would typically do for such papers)—in the light of the comments received, we wanted to ensure that Interpretations Committee members felt able to determine the appropriate course of action on as neutral a basis as possible. The paper nonetheless included thorough analysis of the comments received (considering the principles and requirements in IFRS 16 on lease term and the context within which IFRS Standards should be read), so that Interpretations Committee members would make their decisions on an informed basis and in accordance with the applicable due process requirements.
 12. At its November meeting (on 26 November), the Interpretations Committee voted to finalise the Agenda Decision (seven of 13 members present voted to finalise the Agenda Decision⁵). Since that meeting, we have sent the proposed wording of the Agenda Decision to Interpretations Committee members for their comment (as is our usual process)—the wording of the Agenda Decision is changed only slightly compared to that of the Tentative Agenda Decision.
 13. Accordingly, all due process steps required to publish an agenda decision are now complete and, thus, the Agenda Decision on lease term is ready for publication. However, on the recommendation of IFRS Foundation staff, the Chair of the DPOC has delayed the publication of IFRIC *Update*—which includes the Agenda Decision on lease term—pending discussion by the DPOC of the two letters received from Acteo, Afep and Medef and the 100 Group.

⁴ In accordance with paragraphs 5.16-5.17 of the *Handbook*.

⁵ At the time of its November 2019 meeting, the Interpretations Committee had 13 members. We note that paragraph 5.18 of the *Handbook* states that ‘a simple majority of Interpretations Committee members present can decide, after a debate in a public meeting, whether to add any issue to its work programme’.

Correspondence received

14. Three days after the November 2019 Interpretations Committee meeting held on 26 November, the Chair of the DPOC received the two letters reproduced in Appendices A and B to this paper.

Summary of Acteo, Afep and Medef letter (see Appendix A)

15. The first letter received on 29 November from Acteo, Afep and Medef is not a due process complaint per se—ie the letter suggests no breach of existing due process in the steps followed on the Agenda Decision on lease term. Instead, the letter refers to this Agenda Decision as an illustration of the need, in the view of Acteo, Afep and Medef, to enhance the due process related to agenda decisions.
16. The letter raises the following:
 - (a) the Interpretations Committee’s voting requirement. It is prejudicial to the general perception of the due process requirements for the Interpretations Committee to approve a controversial agenda decision by the very slenderest of margins (seven of the 13 members present voting in favour).
 - (b) the comment letters show clearly the wide divergence in stakeholders’ understanding of the lease term requirements in IFRS 16—there are two different readings of the requirements largely subscribed to by stakeholders. In these circumstances, it is necessary to provide clarification by undertaking standard-setting (ie either an amendment to the Standard or an IFRIC Interpretation); in such circumstances, an agenda decision is an inadequate means of resolving the matter.
 - (c) the staff paper for the November 2019 Interpretations Committee meeting did not convincingly justify the view that no alternative reading of the Standard is possible, and the heading of the paper ‘Agenda decision to finalise’ was tendentious in itself.
17. The signatories of the letter ‘urgently request the Due Process Oversight Committee to suspend this agenda decision pending proper consideration and that the issue be reintroduced in a standard-setting activity’.

Summary of the 100 Group letter (see Appendix B)

18. The second letter received on 29 November from the 100 Group includes the same points as those mentioned in the Acteo/Afep/Medef letter (see paragraphs 15-17 above).
19. However, the 100 Group letter goes further. In addition to the above, it raises the following:
 - (a) the staff paper for the November 2019 Interpretations Committee meeting did not properly represent the detailed views of respondents—in most instances, more than double the number of paragraphs were used to explain the staff’s views than those of respondents. This level of imbalance is leading to a preferred answer before the debate has started.
 - (b) the Agenda Decision would result in a fundamental change to the Standard. At no stage during the development of IFRS 16 was it made clear that economic compulsion was intended to override legal form; in addition, at no stage was there any consideration of what this might mean in practice for entities, audit committees and auditors attempting to make judgements about the economic life of a lease.
 - (c) the Agenda Decision on lease term is not the first instance when a decision of the Interpretations Committee changed the meaning of a Standard—an Agenda Decision relating to IFRIC 23 *Uncertainty over Income Tax Treatments* published in 2017 removed an accounting option previously considered acceptable by major entities and leading audit firms.

Staff analysis of the points raised in the letters to the DPOC Chair

20. In paragraphs 16 and 19 above, we identify six points raised in the letters sent to the DPOC Chair. We consider these points in the following paragraphs.

The DPOC’s review of the Handbook

21. The first two points in paragraph 16(a) and (b)—ie the voting requirement for approval of an agenda decision and the criteria for standard-setting—are suggestions

for enhancing the due process related to agenda decisions. Those points are relevant for the DPOC's review of the *Handbook* and, accordingly, are discussed in agenda paper 2 for this DPOC meeting. This paper does not discuss those comments further.

Disagreement with the technical analysis

22. Paragraph 16(c) notes that Acteo, Afep and Medef and the 100 Group found the staff analysis of the lease term requirements of IFRS 16 unconvincing. They also considered the title of the paper 'Agenda decision to finalise' as tendentious.
23. We view the comments regarding the staff analysis as disagreement with the staff's technical analysis, and with which the Interpretations Committee agreed in reaching its conclusion not to undertake standard-setting. We see no breach of due process in this respect.
24. Regarding the title of the paper, 'Agenda decision to finalise' is the standard title used for all Interpretations Committee papers that discuss comments received on tentative agenda decisions. This includes papers that, in the light of comments received, resulted in a decision *not* to finalise the Agenda Decision but, instead, to undertake narrow-scope standard-setting. For example, this was the outcome in relation to the Board's project to amend IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* for onerous contracts. That project started as a question to the Interpretations Committee. The staff paper on IAS 37—titled 'Agenda decision to finalise' and discussing comments received on the Tentative Agenda Decision—included staff recommendations not only to finalise the Agenda Decision but also to undertake narrow-scope standard-setting. The outcome of the Interpretations Committee's discussion of that paper was to recommend narrow-scope standard-setting to the Board.

Inadequate explanation of respondents' views

25. Paragraph 19(a) sets out the 100 Group's view that the staff paper did not properly represent the views of respondents—this led to imbalance in the paper because significantly more paragraphs were dedicated to explaining the staff's view compared to respondents' views.

26. All comment letters are available on our website—in the context of this Agenda Decision, the staff paper included a hyperlink to the webpage with the comment letters, and a PDF file of all comment letters was made available to Interpretations Committee members to facilitate their reading and consideration of the letters. For this reason, the staff paper did not reproduce (word-for-word) every comment made by respondents in comment letters but, instead, included a summary of those comments. In other words, our staff papers aim to capture all comments received, however in summary format. This is the approach followed for all Board and Interpretations Committee papers that discuss comment letters—the approach followed in this instance regarding lease term was no different.
27. In contrast, the staff analysis of comments received is set out only in staff papers. Therefore, that staff analysis must explain with sufficient detail and thoroughness how the staff reached their view—this is particularly important when the staff hold a different view to that of respondents. As noted by Acteo, Afep and Medef and the 100 Group, the staff paper should convincingly justify the staff’s technical analysis of (in this case) the lease term requirements in IFRS 16. In our view it would have been inappropriate (a) not to have fully analysed respondents’ views, and (b) not to have fully explained the staff analysis of the lease term requirements in IFRS 16.
28. In addition, paragraph 3.66 of the *Handbook* states in relation to comment letters received by the Board or Interpretations Committee: ‘when considering comment letters, the IASB assesses the matters raised and the related explanations and evidence provided by respondents. It is the strength of the analysis provided in comment letters, and the evidence supporting the analysis, that is important’. The staff considered the strength of the analysis provided in comment letters, and the evidence supporting that analysis, in reaching its technical conclusions set out in the staff paper for the November 2019 Interpretations Committee meeting.

The development of the lease term requirements in IFRS 16

29. Paragraph 19(b) of this paper notes the 100 Group’s view that the Agenda Decision on lease term would fundamentally change IFRS 16. The 100 Group says at no stage during the development of IFRS 16 was it made clear that economic compulsion was

intended to override legal form, nor did the Board consider the practical effects on entities and others.

30. In our view, it was abundantly clear throughout the development of IFRS 16 of the importance of an economic assessment in determining lease term. For example, IFRS 16 and accompanying material include the following:

- (a) Lease term is defined as the non-cancellable period for which a lessee has the right to use an underlying asset, together with both:
 - (i) periods covered by an option to extend the lease if the lessee is reasonably certain to exercise that option; and
 - (ii) periods covered by an option to terminate the lease if the lessee is reasonably certain not to exercise that option.

A lessee assesses whether it is reasonably certain to exercise (or not to exercise) options by considering ‘all relevant facts and circumstances that create an economic incentive for the lessee’ to exercise (or not to exercise) those options (paragraphs 18–19 of IFRS 16).

- (b) Within the section of the Basis for Conclusions discussing lease term:
 - (i) paragraph BC156 refers to the Board’s view that ‘the lease term should reflect an entity’s reasonable expectation of the period during which the underlying asset will be used’;
 - (ii) paragraph BC155 explains the need to ‘mitigate the risk of lessees inappropriately excluding lease liabilities from the balance sheet (for example, by excluding lease payments in optional periods for which the lessee has a clear economic incentive to exercise those options’); and
 - (iii) paragraph BC157 explains that, when developing requirements on lease term, the Board was looking to ‘reduce the risk of non-substantive break clauses being inserted within contracts solely to reduce the lease term beyond what is economically reasonable for the lessee’.

31. The Board discussed lease term extensively in developing the Discussion Paper, both Exposure Drafts and the final Standard—indeed, lease term (including the practical effects for entities) was one of the parts of the Standard discussed most. In developing the Standard, substantive changes were made to the lease term proposals at each stage

of the project to address concerns raised about the practical effects and costs for entities. Both the Effects Analysis on IFRS 16 and the Feedback Statement include discussion of the requirements on lease term, including the consideration of economic incentives when determining lease term. The Feedback Statement notes the changes made during the development of IFRS 16 in response to concerns raised about the practical effects and costs for entities.

32. The view that the Agenda Decision will fundamentally change IFRS 16 is, in our view, a disagreement with the technical analysis and conclusion of the Interpretations Committee. We see no breach of due process in this respect.

Reference to an Agenda Decision published in 2017

33. The 100 Group make reference an Agenda Decision published in 2017 relating to IFRIC 23 *Uncertainty over Income Tax Treatments*, which removed an accounting option previously considered acceptable by major entities and leading audit firms.
34. We understand that this comment relates to the Agenda Decision *Interest and Penalties related to Income Taxes* published in September 2017. We consider this to be a passing comment about an Agenda Decision published more than two years ago. The letter makes no reference to the due process followed in developing that Agenda Decision. Therefore, this paper does not discuss it further.

Appendix A—letter received from Acteo, Afep and Medef



Association pour la participation des
entreprises françaises à l'harmonisation
comptable internationale



IFRS DPOC
Columbus Building
7 Westferry Circus
Canary Wharf
London
UK

November 29, 2019

Ref: IFRIC Agenda Decision on Lease Term

Dear Mr Beller

The IFRS Foundation is currently considering amendments that have been proposed to the Due Process Handbook (the DPH). We understand that these amendments should include, amongst other items, the type of majority required to approve Agenda Decisions.

In this context, we believe that it is very prejudicial to the general perception of the due process requirements for the IFRIC to have approved today in a public meeting a controversial agenda decision on lease terms by the very slenderest of margins (seven out of thirteen members present voting in favour).

Moreover, as indicated by a number of constituents who replied to the proposed amendments to the DPH, it seems to us that when two different readings of the requirements of a standard are largely subscribed to by stakeholders, an agenda decision is not an adequate means to resolve the issue. In these circumstances it is necessary to provide clarification by amending the text of the underlying standard or providing an interpretation.

In response to the publication of the tentative agenda decision, the IFRS Interpretations Committee (IFRIC) received more than 30 letters showing very clearly the wide divergence in the understanding of the text. We think that the agenda paper 4 prepared for the November IFRIC meeting did not convincingly justify the view that no alternative reading of the standard was possible, and that the inclusion of the paper in the agenda under the heading "Agenda decision to finalise" was tendentious in itself.

We think that the role of the IFRIC is not just to explain why it thinks its reading is the only one possible, but also to understand why other stakeholders have a different understanding and to explain convincingly why these other readings are mistaken. The role of the IASB is to set the standard and to ensure that the standard is understood in the same way by all. Once it is clear that stakeholders can in good faith have different readings of the text of the standard, it is the duty of the standard-setter to modify the text appropriately.

We urgently request the Due Process Oversight Committee to suspend this agenda decision pending proper consideration and that the issue be reintroduced in a standard-setting activity.

If you require any further information on the content of this letter, please do not hesitate to contact us.

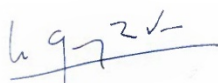
ACTEO

Lise CHORQUES



AFEP

Lé Quang TRAN VAN



MEDEF

Karine MERLE



Appendix B—letter received from the 100 Group



Dear Alan Beller,

IFRIC Agenda Decision on Lease Term

I am writing to you on behalf of the 100 Group to express the deep concern we have with a decision taken by the IFRS Interpretation Committee (IFRIC) at the 26 November 2019 meeting. It relates to an interpretation matter concerning lease terms under IFRS 16, a highly complex standard. The extremely controversial agenda decision by the very slenderest of margins (seven voting in favour and six voting against) disregarded the majority of responses submitted which were supportive of an amendment to the standard being made.

In practice, there have been multiple interpretations by large companies with high quality staff and signed off by the leading audit firms. Even if the staff may feel the terminology was clear, the evidence would suggest this is not the case.

In response to the tentative agenda decision, the IFRIC received 31 letters showing very clearly the wide divergence in the understanding of the standard. Of those 31 letters, 22 disagreed with the draft agenda decision regarding lease term and 17 (55% of respondents) indicated that the lack of clarity was so great that a change to the standard was required. In our view, agenda paper 4 prepared for the IFRIC meeting, did not convincingly justify the view that no alternative interpretation of the standard was possible, and that the inclusion of the paper in the agenda under the heading “Agenda decision to finalise” implied the outcome that was desired.

Moreover, having reviewed the materials provided to the Committee, the staff paper did not properly represent the detailed views of respondents, where in most instances more than double the number of paragraphs were used to explain the staff’s views than those of the respondents. In our view, this level of imbalance is leading the Committee to a preferred answer before the debate has started. If the agenda decision is upheld, we believe it would result in a change in the standard. Such a fundamental change cannot be addressed through the mechanism of an agenda decision alone.

When considering the standard setting process for IFRS 16, at no stage was it made clear that economic compulsion was intended to override legal form; had that been clearer, then there would have been questions about why this was the case for IFRS 16 but not for IFRS 9 or IFRS 15 and how the three standards could claim to sit within a consistent conceptual framework. Furthermore, at no stage in the standard setting process was there any consideration of what this might mean in practice for companies, audit committees and auditors attempting to make judgements about the economic life of a lease within a very wide range of plausible judgements and how, absent detailed guidance and field testing, this would be likely to lead to divergence rather than convergence of accounting treatments.

The role of the IFRIC is not just to explain why it thinks its interpretation is the only one possible, but also to understand why other preparers and auditors have a different understanding and to explain convincingly why these other interpretations are mistaken. The role of the IASB is to set a standard and to ensure that the standard is understood in the same way by all and can be applied consistently on a global scale. Once it is clear that stakeholders can in good faith have different interpretations of

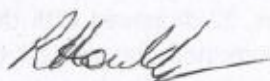
the text of the standard, it is the duty of the standard-setter to modify the text appropriately. Abuse of this process risks bringing it and the IASB into disrepute and risks forcing endorsement bodies around the world to consider changing their terms of reference to cover agenda decisions, since countries will not accept standard changes which have not been properly considered through due processes.

We are aware that this is not the first instance when the decision of the IFRIC changed the meaning of a standard. For example, in 2017, significant concerns were raised in relation to IFRIC 23, "Uncertainty over income Tax Treatments", where a number of large companies and their auditors believed the standard was not so prescriptive as to permit only one interpretation. However, in making the agenda decision that no change to the standard was necessary, the IFRIC removed an accounting option previously considered acceptable by major corporates and leading audit firms.

We urgently request the Due Process Oversight Committee to suspend this agenda decision pending proper consideration and the issue being reintroduced in a standard setting activity. We would also request that you consider the purpose of agenda decisions and how they can be limited to issues which cannot be interpreted as "back door standard setting".

We are more than happy to discuss this matter further with you, and the IFRIC, if this would be of help. Please feel free to contact us through the 100 Group's website, www.the100group.co.uk, should you wish to discuss our comments.

King regards,



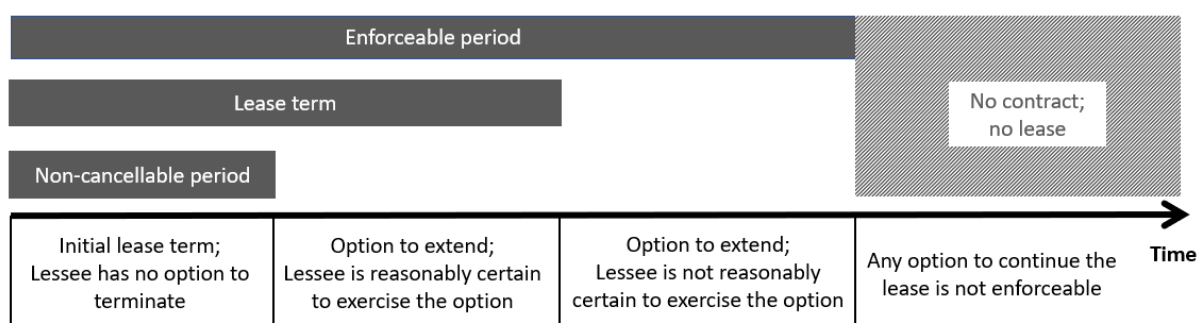
Russ Houlden
Chairman
Financial Reporting Committee

Who we are

The 100 Group of Finance Directors represents the views of the finance directors of FTSE 100 and several large UK private companies. Our member companies represent almost 90% of the market capitalisation of the UK FTSE 100 Index. Our aim is to contribute positively to the development of UK and international policy and practice on matters that affect our businesses, including taxation, financial reporting, corporate governance and capital market regulation. Whilst this letter expresses the views of The 100 Group of Finance Directors as a whole, those views are not necessarily those of our individual members or their respective employers

Appendix C—additional information about the lease term requirements in IFRS 16

- C1. Lease term in IFRS 16 matters—a lessee includes in the lease liability recognised on its balance sheet only lease payments to be made during the lease term determined applying IFRS 16. The Board developed the lease term requirements in IFRS 16 to reflect an entity’s reasonable expectation of the period during which a lessee will use a leased asset.
- C2. IFRS 16 uses the following terms in the context of lease term:
- lease term** is the non-cancellable period of a lease, together with any optional periods that the lessee is reasonable certain to use—assessed considering all relevant facts and circumstances that create an economic incentive for the lessee (paragraphs 18-19 of IFRS 16).
 - the **non-cancellable period** of a lease is any period during which the lessee is unable to terminate the contract (paragraph B35 of IFRS 16). The non-cancellable period in effect sets a minimum lease term.
 - the **enforceable period** of a lease is the period for which rights and obligations exist between the lessee and lessor (as described in paragraph B34 of IFRS 16). To be part of a contract, any optional periods that are included in the lease term must also be enforceable. Consequently, the enforceable period in effect sets a maximum lease term.
- C3. In a simple contract with no optional periods, the non-cancellable period, lease term, and enforceable period of a lease may all be the same. The diagram below depicts a more complex contract, with multiple optional periods:



- C4. As the diagram show, the enforceable period of a lease does not directly determine lease term—however, lease term used for IFRS 16 purposes cannot extend beyond the

enforceable period. The Board introduced ‘enforceability’ in IFRS 16 as a simple idea—to establish the period over which there are really rights and obligations under the lease contract:

- (a) if a lessee concludes that a lease is enforceable beyond the non-cancellable period, it applies the ‘reasonably certain’ assessment in IFRS 16 to determine the lease term—ie it assesses whether it is reasonably certain to use the leased asset beyond the non-cancellable period.
- (b) if a lessee concludes that a lease is not enforceable beyond the non-cancellable period, then the lease term equals the non-cancellable period. The lessee does not apply the reasonably certain assessment because lease term cannot be longer than the enforceable period.

C5. IFRS 16 sets out a specific concept of enforceability—paragraph B34 of the Standard states that ‘a lease is no longer enforceable **when the lessee and the lessor each has the right to terminate the lease without permission from the other party with no more than an insignificant penalty**’. So the idea is that if the parties to a contract can walk away freely from it (with no more than an insignificant penalty), then there is no longer a contract beyond that date.