

6 February 2019

Sue Lloyd
Chair
IFRS Interpretations Committee
Columbus Building
7 Westferry Circus
Canary Wharf
London
United Kingdom
E14 4HD

Dear Ms Lloyd

Tentative agenda decision – IAS 38 *Intangible Assets*: Customer’s right to access the supplier’s software hosted on the cloud

Deloitte Touche Tohmatsu Limited is pleased to respond to the IFRS Interpretations Committee’s publication in the November IFRIC Update of the tentative decision not to take onto the Committee’s agenda the request for clarification on how a customer in a ‘Software as a Service’ cloud computing arrangement.

We disagree with the IFRS Interpretations Committee’s decision not to add this item onto its agenda. We note that the agenda decision suggests that all licencing agreements are out of the scope of IFRS 16. We believe that this conclusion is an interpretation of the requirements of IFRS 16.3(e) and of IAS 38.6. A reasonable acceptable alternative interpretation of those paragraphs is that the reference to “rights held by a lessee under licensing agreements for such items as motion picture films, video recordings, plays, manuscripts, patents and copyrights” is that only leases of licensing agreements for items *similar* to motion pictures films, video recordings, plays, manuscripts, patents and copyrights are necessarily within the scope of IAS 38. Under this alternative interpretation, leases of licensing agreements for other items (in particular, software) may be accounted for either under IFRS 16 or IAS 38 as permitted by IFRS 16.4. We believe that this alternative interpretation is commonly applied in practice. If the scope of contracts excluded from IFRS 16 by paragraph 3(e) is to be interpreted more broadly, this would need to be confirmed by an IFRIC Interpretation.

The use of the words “right to access” as part of the discussion on whether a ‘Software as a Service’ arrangement meets the definition of an intangible asset (in the section “A software intangible asset” of the TAD) may cause confusion because it may be read to imply a symmetry in the analysis of whether a licence represents an intangible asset in IAS 38 and the analysis required in IFRS 15 to determine the timing of recognition of revenue under IFRS 15. We suggest that that the Committee may use different words.

Additionally software as a Service arrangement is an example, but not the only type of arrangements, for which the assessment of whether a contract is to be accounted for as an executory contract or as an intangible asset is difficult. We suggest that the Board may consider whether to add this topic to its agenda.

We also note that a key related issue that causes significant difficulties and divergence in practice is the accounting for the cost of implementing a cloud computing arrangement that is a service. In light of the FASB Emerging Issues Task Force pronouncement ASU 2018-15 Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract, we encourage IFRS IC (or the IASB Board) to add this issue to their agenda.

If you have any questions concerning our comments, please contact Veronica Poole in London at +44 (0) 20 7007 0884.

Yours sincerely

A handwritten signature in grey ink, appearing to read 'V. Poole', with a stylized flourish at the end.

Veronica Poole
Global IFRS Leader