



STAFF PAPER

March 2014

IFRS Interpretations Committee Meeting

Project	IAS 39 <i>Financial Instruments: Recognition and Measurement</i>		
Paper topic	Accounting for term-structured repo transactions		
CONTACT(S)	Won-Hee Han	whan@ifrs.org	+44 (0)20 7246 6960

This paper has been prepared by the staff of the IFRS Foundation for discussion at a public meeting of the IFRS Interpretations Committee. Comments made in relation to the application of an IFRS do not purport to be acceptable or unacceptable application of that IFRS—only the IFRS Interpretations Committee or the IASB can make such a determination. Decisions made by the IFRS Interpretations Committee are reported in *IFRIC Update*. The approval of a final Interpretation by the Board is reported in *IASB Update*.

Introduction

1. In August 2013, the IFRS Interpretations Committee (the Interpretations Committee) received a request to clarify whether three different transactions should be accounted for separately or be aggregated and treated as a single derivative (**Issue 1**). With regard to the request, the submitter also asks how an entity should interpret and apply paragraph B.6 of Guidance on Implementing IAS 39 *Financial Instruments: Recognition and Measurement* ('IG B.6 of IAS 39') (**Issue 2**). Paragraph IG B.6 of IAS 39 provides guidance on whether non-derivative transactions should be aggregated and treated as a derivative.
2. At its November 2013 meeting, the Interpretations Committee discussed the issue and noted that:
 - (a) with regard to Issue 1, providing guidance on the accounting for a specific transaction would not be appropriate;
 - (b) in addition, in order to determine whether Entity A should aggregate and account for the three transactions above as a single derivative, reference may be made to paragraphs B.6 and C.6 of Guidance on Implementing

IAS 39 and paragraph AG39 of IAS 32 *Financial Instruments: Presentation*;

- (c) the fact pattern provided in the request does not provide enough context or detail to assess whether the three transactions should be accounted for separately or aggregated, in part because the business purpose for the transactions was unclear;
 - (d) with regard to Issue 2, the application of the guidance in paragraph IG B.6 of IAS 39 requires judgement; and
 - (e) the indicators in IG B.6 of IAS 39 may help an entity to determine the substance of the transaction, but that the presence or absence of any single specific indicator alone may not be conclusive.
3. On the basis of the analysis above, the Interpretations Committee tentatively decided not to add this issue to its agenda.

Comments received

4. We received four comment letters¹ on the Interpretations Committee's tentative agenda decision, which are attached to this paper as Appendix B.
5. **Two letters** (the Canadian Accounting Standards Board (AcSB) and Deloitte Touche Tohmatsu Limited) agreed with the Interpretations Committee's decision not to add this item onto its agenda for the reasons set out in the tentative agenda decision.
6. **The third letter** (European Securities and Markets Authority (ESMA)) expressed a concern over the lack of specific guidance related to accounting for synthetic derivatives and the articulation of detailed indicators mentioned in IG B.6 of IAS 39. In particular, it noted that the indicator related to the existence of "apparent economic need of substantive business purpose for structuring the transactions separately" would lead to a lack of consistent

¹ The Canadian Accounting Standards Board (AcSB), Deloitte Touche Tohmatsu Limited, European Securities and Markets Authority (ESMA) and Organismo Italiano di Contabilità (OIC), the Italian standard-setter

application. For example, different views might arise in assessing whether a decrease in the regulatory capital requirement or a saving in the income tax payable could be considered as a situation of “substantive business purpose”.

7. ESMA noted that the ambiguity related to these criteria creates incentives for issuers to use structuring opportunities that would have a significant impact on the financial statements.
8. Consequently, ESMA noted that there is a need to address the accounting for synthetic derivatives in order to ensure consistent application of IFRS and limit structuring opportunities within the Standards. However, ESMA acknowledged that it might not be possible to propose timely amendments to IAS 39 and therefore recommended that the IASB should define specific requirements in IFRS 9 *Financial Instruments* related to accounting for synthetic derivatives.
9. In addition, ESMA agreed with the statement in the IFRIC Update for November 2013 meeting that “the presence or absence of any single specific indicator alone may not be conclusive”. However, ESMA preferred that this clarification is made directly in the Guidance on Implementing IAS 39.
10. **The fourth letter** (OIC, the Italian Standard-setter) did not agree with the Interpretations Committee’s decision not to add this item onto its agenda for the reasons set out in the tentative agenda decision. It understood that the Interpretations Committee rejected the request because it is difficult to find a common solution to the accounting for the transactions. It noted that such a conclusion seems to be corroborated by the fact that the business purpose is, in the opinion of the Interpretations Committee, unclear.
11. OIC then raised the following two points:
 - (a) “the lack of clarity about the business purpose may have been determined by the absence of elements in the submission. However, we believe that in the staff paper presented to the IFRS IC in November there was a substantive description of the business purpose based on the text of submission (see para. 25 of the agenda paper 16). Analysing carefully such a description of the business purpose, it is clear that the

intention of the transaction was certainly not to simulate the effects of a derivative, such as a CDS.”

- (b) “The relevance of the business purpose. The spotlight on the unclarity of the business purpose indicates that special attention should be given to such an indicator among those listed in para. B.6 of the IAS 39 IG.”

12. OIC, having considered the above two points, noted that the Interpretations Committee should reconsider its conclusions in the light of a better understanding of the business purpose.
13. OIC also noted that the issue is widespread and the absence of specific guidance on how to consider the indicators listed in IG B.6 of IAS 39 could lead to a serious risk of divergence in practice. However, OIC acknowledged that it might not be possible to propose amendments to IAS 39 and recommended that the IASB should develop further guidance in the finalisation of IFRS 9.

Staff analysis

14. We will examine four issues as listed below to address the views of ESMA and OIC:
 - (a) (Issue A) Should the submitter’s issue be reconsidered in the light of more information about the business purpose?
 - (b) (Issue B) Should we provide more guidance on accounting for synthetic derivatives or, more specifically, provide guidance for what “substantive business purpose” means as used in IG B.6 of IAS 39?
 - (c) (Issue C) Should we add the description ‘the presence or absence of any single specific indicator alone may not be conclusive’ to the Standard?
 - (d) (Issue D) Should we amend IFRS 9 if by doing so we were to provide more guidance with regard to accounting for synthetic derivatives?

(Issue A) Should the submitter’s issue be reconsidered in the light of more information about the business purpose?

15. IG B.6 of IAS 39 includes indicators by which an entity determines whether non-derivative transactions should be aggregated and treated as a single derivative. One of the indicators is that: “there is no apparent economic need or **substantive business purpose** for structuring the transactions separately that could not also have been accomplished in a single transaction” (emphasis added).

16. OIC viewed that the Interpretations Committee had rejected taking the submitter’s issue onto its agenda because the ‘business purpose’ for the transactions was unclear. OIC, however, thinks that the submission provides a substantive description of the business purpose. It therefore asked the Interpretations Committee to reconsider its tentative agenda decision in the light of a better understanding of the business purpose of the submitter’s issue.

17. We note that the tentative agenda decision made at the November 2013 Interpretations Committee meeting includes the following paragraph:

The Interpretations Committee noted that the fact pattern provided in the request does not provide enough context or detail to assess whether the three transactions should be accounted for separately or aggregated, in part because the business purpose for the transactions was unclear. In addition, the Interpretations Committee noted that providing guidance on the accounting for a specific transaction would not be appropriate.

18. We note that the first sentence of the paragraph above in the tentative agenda decision can be read to suggest that if the Interpretations Committee is provided with all the facts and circumstances about the transactions including detail information about the business purpose, it would determine whether the submitter’s transactions should be accounted for separately or aggregated.

19. However, we think that the second sentence of the paragraph above in the tentative agenda decision reflects the position of the Interpretations Committee more accurately, because the Interpretations Committee is not

supposed to provide guidance on the accounting for such a specific transaction as the one that submitter cited, even if all facts and circumstances were presented to the Interpretations Committee.

20. In this sense, we think that Issue 1 can be addressed by modifying the wording of the tentative agenda decision in order to reflect our analysis. We think that the Interpretations Committee should delete the first sentence of the paragraph above, but retain the second sentence.

(Issue B) Should we provide more guidance on accounting for synthetic derivatives or, more specifically, provide guidance for what “substantive business purpose” means as used in IG B.6 of IAS 39?

21. ESMA and OIC commented that the Interpretations Committee should provide further guidance on accounting for synthetic derivatives including how to apply the indicators listed in IG B.6 of IAS 39. OIC further suggested that more guidance is necessary on what “the substantive business purpose” means as used in IG B.6 of IAS 39.
22. We note that a project of developing additional guidance on accounting for synthetic derivatives would not be sufficiently narrow in scope that the Interpretations Committee could address this. This is because such a project would require considering a wide range of different synthetic derivatives and thus might also involve a review of other relevant requirements in the Standards.
23. We also note that adding more indicators to IG B.6 of IAS 39 would not help the assessment of the transactions because the business purpose of transactions would vary from transaction to transaction and thus preparers would still be required to use judgement on their specific cases.

(Issue C) Should we add the description ‘the presence or absence of any single specific indicator alone may not be conclusive’ to the Standard?

24. ESMA agreed with the wording in the tentative agenda decision that ‘the presence or absence of any single specific indicator alone may not be

conclusive'. However, it would have preferred this clarification to be made in the Guidance on Implementing IAS 39.

25. We think that if any Standard provides certain indicators to assist an assessment, such indicators would imply that 'the presence or absence of any single specific indicator alone may not be conclusive'. This is because this phrase is self-evident when considering the meaning of the term 'indicator'. The meaning of the term 'indicator' could be understood as explained in the agenda paper (paragraph 29) to the November 2013 Interpretations Committee meeting:

29 We also note that the indicators in paragraph IG B.6 of IAS 39 are **neither definitive nor exhaustive** as (reflected in the wording 'Indicators of this would include'). We think that the purpose of these indicators is **not to prescribe sufficient and /or necessary conditions** to account for a set of non-derivative transactions as a single derivative. (...) In short, we are of the view that IG B.6 of IAS 39 sets out indicators to consider but **those indicators in themselves are not conclusive**. (emphasis added)

26. Consequently, we do not think that including the phrase 'the presence or absence of any single specific indicator alone may not be conclusive' in the Standard would help stakeholders to better understand the Standard. We think that that including the phrase in the final agenda decision would be sufficient to clarify the meaning of the term 'indicator'. Furthermore, such an amendment to IAS 39 would entail an assessment on whether it is necessary to make consequential amendments to other Standards in which the word 'indicator' is mentioned.

(Issue D) Should we amend IFRS 9 to provide more guidance with regard to accounting for synthetic derivatives?

27. ESMA and OIC requested that, to reflect their suggestions in the Standards, the Interpretations Committee or the IASB should amend IFRS 9 if it is difficult to make timely amendments to IAS 39.

28. As analysed for Issues A to C, we do not think that such an amendment should be made. Consequently, we do not think that the Interpretations Committee should consider recommending amendments to IFRS 9 to the IASB.

Staff recommendation

29. After considering the comments received on the tentative agenda decision, we recommend that the Interpretations Committee should finalise its decision not to add this issue to its agenda. The proposed wording of the final agenda decision is shown in Appendix A to this paper.

Questions for the Interpretations Committee

1. Does the Interpretations Committee agree with the staff's recommendation that the Interpretations Committee should finalise its decision not to add this issue to its agenda?
2. Does the Interpretations Committee have any comments on the proposed wording in Appendix A for the final agenda decision?

Appendix A—Proposed wording for final agenda decision

- A1 The proposed wording for the final agenda decision is presented below (new text is underlined and deleted text is struck through).

IAS 39 *Financial Instruments: Recognition and Measurement*— Accounting for term-structured repo transaction

The Interpretations Committee received a request to clarify: (~~‘Issue 1’~~) whether an entity (Entity A) should account for three transactions separately or aggregate and treat them as a single derivative; and (~~‘Issue 2’~~) how to apply paragraph B.6 of Guidance on Implementing IAS 39 *Financial Instruments: Recognition and Measurement* (~~‘IG B.6 of IAS 39’~~) in addressing Issue 1. Some key features of the three transactions are as follows:

- a. Transaction 1 (bond purchase): Entity A purchases a bond (~~‘the bond’~~) from another entity (Entity B).
- b. Transaction 2 (interest rate swap): Entity A enters into interest rate swap contract(s) with Entity B. Entity A pays a fixed rate of interest equal to the fixed coupon rate of the purchased bond in Transaction 1 and receives a variable rate of interest.
- c. Transaction 3 (repurchase agreement): Entity A enters into a repurchase agreement with Entity B, in which Entity A sells the same bond in Transaction 1 on the same day it purchases the bond and agrees to buy back the bond at the maturity date of the bond.

~~The Interpretations Committee noted that the fact pattern provided in the request does not provide enough context or detail to assess whether the three transactions should be accounted for separately or aggregated, in part because the business purpose for the transactions was unclear. In addition, Tthe Interpretations Committee noted that providing guidance on the accounting for a specific transaction would not be appropriate.~~

The Interpretations Committee noted that in order to determine whether Entity A should aggregate and account for the three transactions above as a single derivative, reference may be made to paragraphs B.6 and C.6 of Guidance on Implementing IAS 39 and paragraph AG39 of IAS 32 *Financial Instruments: Presentation*.

The Interpretations Committee also discussed Issue 2, ie, how to apply paragraph IG B.6 of IAS 39 in addressing Issue 1. The Interpretations Committee noted that application of the guidance in paragraph IG B.6 of IAS 39 requires judgement. It also noted that the indicators in paragraph IG B.6 of IAS 39 may help an entity to determine the substance of the transaction, but that the presence or absence of any single specific indicator alone may not be conclusive.

The Interpretations Committee considered that, in the light of its analysis of the existing IFRS requirements and guidance, an Interpretation was not necessary and consequently [decided] not to add this issue to its agenda.

Appendix B—Comment letters received



277 Wellington Street West, Toronto, ON Canada M5V 3H2 Tel: (416) 977-3322 Fax: (416) 204-3412 www.frascanada.ca

277 rue Wellington Ouest, Toronto (ON) Canada M5V 3H2 Tél: (416) 977-3322 Téléc : (416) 204-3412 www.nifccanada.ca

January 13, 2014
(via email to ifric@ifrs.org)

IFRS Interpretations Committee
30 Cannon Street, 1st Floor
London EC4M 6XH
United Kingdom

Dear Sirs:

Re: Tentative agenda decision on IAS 39 Financial Instruments: Recognition and Measurement

This letter is the response of the staff of the Canadian Accounting Standards Board (AcSB) to the IFRS Interpretations Committee's tentative agenda decision regarding a request to clarify the accounting for term-structured repo transaction. The request included clarifying: ("Issue 1") whether an entity should account for three transactions separately or aggregate and treat them as a single derivative; and ("Issue 2") how to apply paragraph B.6 of Guidance on Implementing IAS 39 *Financial Instruments: Recognition and Measurement* ("IG B.6 of IAS 39") in addressing Issue 1, as published in the November 2013 IFRIC update.

The views expressed in this letter take into account comments from individual members of the AcSB staff but do not necessarily represent a common view of the AcSB or its staff. Views of the AcSB are developed only through due process.

We agree with the Committee's decision not to add this item to its agenda for the reasons provided in the tentative agenda decision.

If you require further information, please contact me at +1 416 204-3276 (email pmartin@cpacanada.ca), or Katharine Christopoulos, Principal, Accounting Standards at +1 416 204-3270 (email kchristopoulos@cpacanada.ca).

Yours truly,

A handwritten signature in black ink that reads "Peter Martin".

Peter Martin, CPA, CA Director,
Accounting Standards

Wayne Upton
Chairman
IFRS Interpretations Committee
30 Cannon Street
London
United Kingdom
EC4M 6XH

Email: ifric@ifrs.org

21 January 2014

Dear Mr Upton

**Tentative agenda decision – IAS 39 *Financial Instruments: Recognition and Measurement*:
Accounting for term-structured repo transaction**

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 a request for clarification of the accounting for a series of transactions (a bond purchase, interest rate swap and repurchase agreement).

We agree with the IFRS Interpretations Committee's decision not to add this item onto its agenda for the reasons set out in the tentative agenda decision.

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

Yours sincerely



Veronica Poole
Global IFRS Leader

Wayne Upton
Chair
IFRS Interpretations
Committee
30 Cannon Street
London, EC4M 6XH L
United Kingdom

The IFRS Interpretations Committee's tentative agenda decision on IAS 39 Financial Instruments: *Recognition and Measurement* – Accounting for term-structured repo transaction

Dear Mr. Upton,

The European Securities and Markets Authority (ESMA) is an independent EU Authority that contributes to enhancing the protection of investors and promoting stable and well-functioning financial markets in the European Union (EU). ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

ESMA has considered the IFRS Interpretations Committee's tentative decision not to add to its agenda the request for clarification it received on accounting for term-structured repo transactions with reference to paragraphs B.6 and C.6 of Guidance on Implementing IAS 39 and paragraph AG39 of IAS 32 *Financial Instruments: Presentation*.

ESMA agrees with the IFRS Interpretations Committee's conclusion that application of requirements in paragraph B.6 of Guidance on Implementing of IAS 39 requires judgement. However, ESMA is concerned that the ambiguity related to these criteria creates incentives for issuers to use structuring opportunities that would have a significant impact on the financial statements, not only related to the absolute size of the statement of financial position, but also related to the statement of comprehensive income (e.g. as in the case referred to by the submission, accounting for credit risk in profit or loss or in other comprehensive income).

As a result of the review of financial statements carried out by accounting enforcers and ESMA's coordination activities, we are concerned that the lack of specific guidance related to accounting for synthetic derivatives and the articulation of detailed indicators mentioned in paragraph B.6 of Guidance on Implementing IAS 39, notably related to the existence of *'apparent economic need of substantive business purpose for structuring the transactions separately'* would lead to lack of consistent application in this area. For example, different views might arise in assessing whether a decrease in the regulatory capital requirement or a saving in the income tax payable could be considered as a situation of *'substantive business purpose'*.

Moreover, ESMA agrees with the IFRS Interpretation Committee that *'the presence or absence of any single specific indicator alone may not be conclusive'*. However, ESMA would prefer that this clarification is made directly in the Guidance on Implementing IAS 39. We believe that in absence of such clarification, current divergence in practice would continue raising enforceability issues.

Consequently, ESMA does not agree with the IFRS Interpretations Committee's conclusion neither to add this issue to its active agenda nor to recommend the IASB to address the issue. We believe that there is a need to address the accounting for synthetic derivatives in order to ensure consistent application of IFRS and limit structuring opportunities, directly within the standards. At the same time, ESMA acknowledges that the IFRS Interpretations Committee might not be best placed to address this issue given that the detailed guidance is included only in the Guidance on Implementing IAS 39. ESMA notes that the IASB is currently revisiting the guidance on financial instruments and thus it might not be possible to propose timely amendments to IAS 39. Therefore, in order to promote transparency, to achieve consistent application of IFRS and to improve the enforceability of the standard, ESMA would encourage the IFRS Interpretations Committee to consider the abovementioned concerns and recommend the IASB to define specific requirements related to accounting for synthetic derivatives directly within IFRS 9 – *Financial Instruments*.

We would be happy to discuss all or any of these issues further with you.

Yours sincerely,

A handwritten signature in blue ink, appearing to be "S/M", written over a light blue horizontal line.

Steven Maijoor

Chair

European Securities and Markets Authority

CC: Hans Hoogervorst, Chairman International Accounting Standards Board (IASB)

**Organismo Italiano di Contabilità – OIC
(The Italian Standard Setter)**
Italy, 00187 Roma, Via Poli 29
Tel. 0039/06/6976681 fax 0039/06/69766830
e-mail: presidenza@fondazioneoic.it

IFRS Interpretations Committee
30 Cannon Street
London EC4M 6XH
United Kingdom
ifric@ifrs.org

18 February 2014

Re: Interpretation Committee tentative agenda decisions

Dear Wayne,

We are pleased to have the opportunity to provide our comments in order to contribute to the IFRS IC agenda decision (issued in November 2013) on IAS 8 – “Distinction between a change in accounting policy and a change in accounting estimate” and on IAS 39 – “Accounting for Repo transaction”.

Moreover we would like to provide our comments on IFRS 11 – “Accounting for interests in joint operations structured through separate vehicles”, even if no contribution is required on this item.

We are writing to communicate some concerns about the tentative decisions reached on the above-mentioned issues and on IFRS 11.

IAS 8 - Distinction between a change in accounting policy and a change in accounting estimate

The issue relates to the distinction between a change in an accounting policy and a change in an accounting estimate, in relation to the application of IAS 8 Accounting Policies, Changes in accounting Estimates and Errors.

The IFRS IC decided not to add this issue to its agenda because it noted that the principal guidance on distinguishing a change in accounting policy from a change in accounting estimate is set out in paragraphs 5 and 35 of IAS 8 and any amendment to the Standard would be too broad for it to address within the confines of existing IFRSs. Therefore, the IFRS IC considered that it should bring the issue to the IASB’s attention for future consideration in the Disclosure project and/or the Conceptual Framework project.

We agree with the IFRS IC’s tentative decision to bring the issue to IASB’s attention, but we believe that IASB should address it in an ad hoc project, because the lack of a clear distinction could lead to an inconsistent application of the IAS 8.

IAS 39 – Accounting for Repo transaction

The issue relates to the separate or aggregate accounting for three transactions and to the application of paragraph B.6 of Guidance on Implementing IAS 39 Financial Instruments: Recognition and Measurement ('IG B.6 of IAS 39') in addressing the first issue.

It is our understanding that the tentative conclusion of the IFRS IC to reject the request for interpretation stems from the difficulty of finding a common solution to the accounting for the transactions, as it may vary according to the specific contract clauses. Such a conclusion seems to be corroborated by the fact that the business purpose is, in the opinion of the IFRS IC, unclear.

The position of the IFRS IC triggers the following considerations:

- The lack of clarity about the business purpose may have been determined by the absence of elements in the submission. However, we believe that in the staff paper presented to the IFRS IC in November there was a substantive description of the business purpose based on the text of submission (see para. 25 of the agenda paper 16). Analyzing carefully such a description of the business purpose, it is clear that the intention of the transaction was certainly not to simulate the effects of a derivative, such as a CDS.
- The relevance of the business purpose. The spotlight on the unclarity of the business purpose indicates that special attention should be given to such an indicator among those listed in para. B.6 of the IAS 39 IG.

Having considered such aspects, we are convinced that the IFRS IC should reconsider its conclusions in the light of a better understanding of the business purpose.

We acknowledge that application of the guidance in paragraph IG B.6 of IAS 39 requires judgement and that the presence or absence of any single specific indicator alone may not be conclusive. However, the issue is widespread and the absence of specific guidance on how to consider the indicators listed in para. IG B.6 could lead to the serious risk of a difference in practice. The IFRS IC should not underestimate this situation and should sooner rather than later provide preparers with adequate indications. We understand that the IASB may not want to develop further guidance in the application of the IAS 39. However, we note that the issue under consideration is identical in IFRS 9 and therefore it is expected that the IASB will deal with it sooner rather than later in the finalization of the IFRS 9.

IFRS 11 – Accounting for interests in joint operations structured through separate vehicles

The issue relates to the accounting for interests in joint operations structured through separate vehicles. IFRS 11 Joint Arrangements requires a joint operator, in its separate financial statements, to account for its interest in a joint operation structured through a separate vehicle in the same manner as in the consolidated financial statements. This is the case regardless of whether the joint operation is structured through a separate vehicle or not.

Applying the requirements in IFRS 11 in the separate IFRS financial statements of a joint operator has created significant concerns in some jurisdictions, particularly those that require listed companies to present separate financial statements in accordance with IFRS. The issue arises when a joint operation is structured through a separate vehicle (for example a legal entity).

The OIC appreciates the IFRS IC's efforts to address many accounting issue related to the application of IFRS 11.

The OIC considers to be worthy of further analysis the issue identified by IFRS IC as "Additional Issue 4: Nature of obligation for the liabilities". Such an issue is very important especially in the cases in which the joint operation assessment is based on a "contractual arrangement". It is very important that IFRS IC give priority to this issue.

Should you need any further information, please do not hesitate to contact us.

Yours sincerely,

Angelo Casò
(Chairman)