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Beyond the GAAP

Mazars' monthly newsletter on financial and sustainability reporting

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Editorial

Less than six months after launching the standard-setting project, the IASB seems well on the way to finalising the amendments to IAS 12 that will introduce a temporary exception to the recognition of deferred taxes resulting from the implementation of the OECD Pillar Two rules. The IASB acknowledged the timely and helpful feedback from stakeholders on its proposed amendments and, at the end of a supplementary meeting dedicated to the project, finally elected to simplify the disclosure requirements compared with its initial proposal. This was arguably the most practical solution to ensure rapid finalisation of the amendments, which was important to all stakeholders.

Another major news item reported in this issue is the IASB's recent publication of an exposure draft of proposed amendments to IFRS 9 and IFRS 7, following the first phase of the Post-implementation Review of IFRS 9. The exposure draft also includes the IASB's response to a question initially put to the IFRS Interpretations Committee, concerning the date on which to derecognise a receivable that is settled using an electronic payment system.

IFRS Highlights

IFRS IC agenda decision on definition of a lease: level of evaluation and substitution rights

In March 2023, the IFRS Interpretations Committee (IFRS IC) reached a final decision on a question relating to how to determine whether a contract contains a lease. The decision was ratified by the IASB (International Accounting Standards Board) in April and published in an addendum to the March 2023 IFRIC Update (available here).

The question related to:

- the level at which to evaluate whether a contract contains a lease when the contract covers the use of several similar assets (i.e. should each asset be considered separately or all assets together?); and
- how to assess whether a contract contains a lease when the supplier has particular substitution rights, particularly when it:
  - has the practical ability to substitute the underlying asset throughout the period of use; but
  - would not benefit economically from exercising its substitution right throughout the period of use.

In the fact pattern submitted to the IFRS IC:

- a customer enters into a 10-year contract with a supplier for the use of 100 similar batteries to be used in electric buses. The customer uses each battery with other readily available resources (each battery is used in a bus that the customer owns or leases from a party unrelated to the supplier);
- the supplier has the practical ability to substitute the batteries throughout the contract term;
- if a battery had to be substituted, the supplier would be required to compensate the customer for any loss

of income or cost incurred during the substitution;

- at inception of the contract, the expectation is that the supplier would not benefit economically from substituting a battery that had been used for less than three years, but could benefit economically from substituting a battery that had been used for three years or more.

In the preamble to its decision, the Committee noted that:

- the requirements in paragraphs B13 to B19 of IFRS 16 set a high hurdle for a customer to conclude that there is no identified asset when an asset is explicitly or implicitly specified;
- the use of judgement is required to determine whether a supplier's substitution right is substantive throughout the period of use;
- paragraph B14(a) specifies that a supplier has the practical ability to substitute the underlying asset throughout the period of use even if it does not already have alternative assets but could source those assets within a reasonable period of time. This illustrates the fact that "throughout the period of use" does not mean "at any given moment throughout this period".

At what level should the contract be evaluated to determine whether it contains a lease?

In response to this question, the IFRS IC concluded that the evaluation should be carried out for each potential separate lease component, or in this specific case, for each battery. This includes the evaluation of whether the supplier's substitution right is substantive.

This is because, in the fact pattern, (i) the customer can benefit from the use of each battery, and (ii) each battery is neither highly dependent on nor highly interrelated to the other batteries in the contract.

Is there an identified asset?

In response to this question, the IFRS IC first observed that each battery is specified (i.e. even if it is not explicitly specified in the contract, a battery is implicitly specified when it is made available to the customer) and that, unless the supplier has a substantive substitution right throughout the period of use, each battery is an identified asset.

Next – although the condition relating to the supplier's practical ability to substitute the battery throughout the period of use (IFRS 16 B14a) is assumed to be met – the IFRS IC noted that the use of judgement is required to determine whether the supplier's substitution right is substantive. In this specific case, the facts and circumstances clearly show that the supplier does not have a substantive substitution right throughout the period of use.

The IFRS IC's conclusion

The IFRS IC concluded that, in the fact pattern submitted, each battery is an identified asset and the customer must apply IFRS 16 to determine whether the contract contains a lease (which requires it to determine whether, throughout the period of use, it has the right to obtain substantially all the economic benefits from the use of each battery and to direct the use of each battery) and, if the contract does contain a lease, to determine the lease term.

OECD Pillar Two: publication of final amendments to IAS 12 expected by end of May

In January 2023, the IASB published an exposure draft of amendments that would introduce a temporary exception to the recognition of deferred taxes resulting from the implementation of the OECD Pillar Two rules under IAS 12, and that would require targeted disclosures on entities' exposure to these new tax rules (cf. Beyond the GAAP no. 171, November 2022, and Beyond the GAAP no. 173, January 2023).

In April, at a supplementary meeting dedicated to this topic, the IASB decided to finalise the amendments. In light of the comments received, the IASB decided that it would not specify the exact disclosures (or the basis on which the disclosures should be prepared) that an entity would be required to provide on its exposure to OECD Pillar Two income taxes during the period between the enactment (or substantive enactment) of the OECD Pillar Two rules and their implementation.

The final amendments would thus:

- introduce a temporary exception (with no specified end date) to the recognition of deferred taxes resulting from the implementation of the OECD Pillar Two rules under IAS 12 and the disclosure of information about these deferred taxes;
- require an entity to disclose that it has applied this exception;
- between the enactment (or substantive enactment) of the OECD Pillar Two rules and their implementation, require the disclosure of known or reasonably estimable information (similar to the requirements of IAS 8 ahead of the implementation of new standards) that would help users of financial statements to understand the entity's exposure to income taxes arising from the OECD Pillar Two rules:
  - these disclosures should be both quantitative and qualitative;
  - these disclosures would not need to reflect all the specific requirements of the legislation, and could be provided in the form of an indicative range;
  - if information is not known or reasonably estimable, the entity would be required to provide a declaration to this effect and state the progress it has made towards assessing its exposure to income taxes arising from the OECD Pillar Two rules;
- require separate presentation of current tax expense arising from the OECD Pillar Two rules.

The publication of the amendments is scheduled for the second half of May. The temporary exception to the recognition of deferred taxes would be applicable retrospectively, immediately on publication of the amendments.

Discussions on the equity method

At its April 2023 meeting, the IASB continued its discussions on the equity method and tentatively proposed that an investor should recognise, and include in the carrying amount of its investment in an associate, a deferred tax asset (or liability) arising from recognition of its share of the associate's net identifiable assets and liabilities at fair value.

At this meeting, the IASB decided to change the status of this project from 'research' to 'standard-setting', with the next stage being the publication of an exposure draft, although no date was specified for this.

IFRS IC members reappointed

The Trustees of the IFRS Foundation have reappointed Renata Bandeira, Sophie Massol, Jon Nelson and Donné Sephton as members of the IFRS Interpretations Committee. Their new three-year term will commence on 1 July 2023.

ISSB: new transition relief for first-time publication of sustainability-related information under IFRS

On 4 April 2023, the International Sustainability Standards Board (ISSB) tentatively decided to introduce a new transition relief in the future IFRS S1 standard, *General Requirements for Disclosure of Sustainability-related Financial Information.*

This would permit entities to:

- report only on climate-related risks and opportunities in the first year, as required by IFRS S2, *Climate-related Disclosures*; and
- report on other sustainability-related risks and opportunities from the second year.

Thus, only the climate-related requirements of IFRS S1 would be applicable in the first year of implementation.

This transition relief would not change the effective date of the two standards, which has (tentatively) been set for annual reporting periods commencing on or after 1 January 2024.

Furthermore, the Board members tentatively decided that an entity that elects to apply this transition relief:

- will be required to disclose that fact;
- will not be required to provide comparative information on sustainability-related disclosures in the first year that it reports these, in line with the previously agreed transition relief that the ISSB has already incorporated into IFRS S1. However, the ISSB clarified that comparative information on climate-related disclosures will be required from the second year.

The final stage is the formal vote of the Board on the two draft standards. This is likely to take place imminently, with a view to publishing the final standards by end of June.

First-time application of IFRS S1 and S2: creation of a Transition Implementation Group

At the end of April, the ISSB announced the creation of a Transition Implementation Group (TIG) on IFRS S1 and IFRS S2, which will discuss practical issues relating to implementation of the two standards. The TIG will also inform the ISSB of any further action required to address these questions. The lifespan of the TIG will be limited to the transition period.

The IFRS Foundation has published a call for candidates, which is open until 30 June 2023 (available here).

ISSB: upcoming public consultations on the Board's future work plan and the exposure draft on the international applicability of SASB standards

In April, the ISSB's discussions focused on:

- the due process for the Request for Information (RFI) on the Board's two-year work plan (cf. Beyond the GAAP no. 172, December 2022 and Beyond the GAAP no. 175, March 2023), agreeing a 120-day consultation period starting from the publication date of 4 May;

- the project on the international applicability of the standards published by the Sustainability Accounting Standards Board (SASB), which it also discussed the previous month (cf. Beyond the GAAP no. 175, March 2023). This month, the Board (i) ratified the exposure draft on the topic[1] and (ii) decided on a 90-day comment period from the date of its publication (which is expected in May). The ISSB has also clarified that this project only affects around 20% of the metrics included in the SASB standards.
  The Board also noted the importance of this work as a future source of guidance for entities when identifying (i) sustainability-related risks and opportunities and (ii) related disclosures when applying IFRS S1 on topics other than the climate.

For more details, see the April 2023 ISSB Update and the associated press release of 19 April, available here and here respectively.

European Highlights

EC publishes draft delegated acts relating to Green Taxonomy

On 5 April, the European Commission (EC) published two draft delegated acts on its website. The first specifies the technical screening criteria for the four non-climate-related environmental objectives (sustainable use and protection of water and marine resources; transition to a circular economy; pollution prevention and control; protection and restoration of biodiversity and ecosystems), and the second amends the resulting disclosure requirements[2]. The EC has also published draft delegated acts setting out new criteria[3] for the first two climate-related objectives (mitigation and adaptation)[4].

The EC has proposed a stage-by-stage schedule for implementation, but it nonetheless places significant demands on non-financial undertakings, with entities required to report on (only) the eligibility of economic activities with regard to the four new objectives from the 2023 financial period (i.e. reporting published in 2024) and on alignment with the technical screening criteria from the following year (i.e. the 2024 financial period, with reporting published in 2025). For financial undertakings, the timetable is the same for eligibility (i.e. from the 2023 financial period), but they will receive an additional year to prepare for alignment reporting (i.e. first-time application will be for reporting on the 2025financial period, published in 2026).

The feedback period for these draft texts ended on 3 May. The final delegated acts are scheduled for adoption by the EU during the summer.

Timetable for the EC's adoption of the delegated acts for ESRS Set 1 and adaptation of EFRAG's work programme: current state of play

On 12 April, Sven Gentner, Head of the Corporate reporting, audit and credit rating agencies unit in the Directorate-General for Financial Stability, Financial Services and

[1] Entitled "Methodology for Enhancing the International Applicability of the SASB Standards and SASB Standards Taxonomy Updates".

[2] As set out in Delegated Regulation (EU) 2021/2178 of 6 July 2021, pursuant to Article 8 of the June 2020 Regulation.

[3] Relating to (i) economic activities falling within the scope of the Climate Delegated Act currently in force, and (ii) additional activities, including, for example, aviation (manufacturing, passenger and freight transport), civil engineering and climate risk management consultancy.

[4] In addition to the criteria initially established by Delegated Regulation (EU) 2021/2139 of 4 June 2021.

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Capital Markets Union (DG FISMA), spoke at a public meeting of EFRAG’s Sustainability Reporting Board (SRB) in order to present the state of play of the EC's ongoing work with regard to ESRS Set 1 (i.e. the first “sector-agnostic” standards). Readers are reminded that under the Corporate Sustainability Reporting Directive (CSRD), due process requires the Commission to endorse the ESRS by way of delegated acts, based on the work of EFRAG.

This followed statements by President Ursula von der Leyen and Financial Services Commissioner Mairead McGuinness on (i) setting a target of reducing the reporting burden on companies by around 25% and (ii) prioritising the introduction of a support framework for implementation of ESRS Set 1 (see Beyond the GAAP no. 175, March 2023).

It was announced that the draft delegated acts relating to Set 1 should be published[5] during May (rather than at the beginning of April as initially planned) and that this delay would have an impact on the date of the Commission's adoption of the final delegated acts, which is now expected to take place during the summer (i.e. after 30 June, instead of the date indicated in the CSRD) and no later than 31 August 2023[6].

The nature and extent of the changes that the EC will make to the draft standards submitted by EFRAG at the end of November 2022 were not detailed, as this work was still in progress when Mr Gentner spoke. However, it was reported that one avenue under consideration was the introduction of new transitional arrangements.

At this meeting, the SRB Chairman Patrick de Cambourg discussed the measures that EFRAG was considering to support the application of ESRS Set 1. These measures, which have yet to be confirmed in discussions with the EC, would build on EFRAG's existing organisation, governance and decision-making processes, with a view to continuity and capitalising on the due process followed in Set 1. In practice, this is likely to result in:

- the provision of guidance focusing on the materiality assessment, the value chain (including identification of the scope of value chain disclosures under the various standards) and the inventory of Set 1 datapoints (in Excel, to assist with preparer’s gap analysis), with a view to publishing the deliverables during summer 2023;
- the creation of a platform where stakeholders can submit their questions on the application and interpretation of Set 1;
- the creation of a documentation centre (“ESRS e-Hub”) intended to bring together all the guidance relating to ESRS and, in time, the associated XBRL Taxonomy.

At a subsequent meeting in April, members of the Technical Expert Group (SR TEG) discussed the forthcoming deadlines and, in particular, the timetable and procedures for preparing the comment letters that will be sent to the ISSB as part of the two forthcoming public consultations (see IFRS Highlights in this issue).

[5] For submission to public consultation over a four-week period.

[6] The cut-off date, given the four-month deadline imposed by the CSRD between the adoption of the final delegated acts and their entry into force on 1 January 2024.

EFRAG discusses XBRL Taxonomy for ESRS Set 1

During April, the SRB and SR TEG discussed the XBRL Taxonomy for ESRS Set 1, drawing on the work carried out by the external consultant appointed by EFRAG.

The discussions focused on the methodology to be used to translate ESRS into an appropriate list of tags, as well as the architecture and technical aspects of the XBRL Taxonomy. The following major points were discussed by the TEG and then the SRB:

- the approach to be used for tagging the qualitative data (notably as regards the hierarchy and granularity) to ensure maximum comparability and user-friendliness;
- translation of entity-specific information that is not covered by ESRS Set 1 into the XBRL Taxonomy, which may require the creation of entity-specific extensions;
- the possibility of automatically generating a report listing certain datapoints ("metrics" only) that are not tagged and are thus implicitly considered to be not material for the undertaking;
- tagging of contextual information relating to indicators that are required by other EU laws. A technical solution has been proposed to link the contextual information to these indicators, thus identifying it as data to be always disclosed;
- the information that should be made available to stakeholders through the public consultation, namely the XBRL Taxonomy, including the full list of datapoints, and an example of a tagged report.

The discussions also repeatedly returned to the respective roles of EFRAG on the one hand (i.e. developing the Taxonomy based on the draft standards prepared and approved by the SRB for submission to the EC, and updating it once the final delegated acts have been adopted) and ESMA on the other hand (i.e. setting the tagging rules, and integrating the Taxonomy into the broader XBRL environment).

It is still not certain when the public consultation period will open, as the EC wishes to avoid overlapping public consultations on ESRS and has asked EFRAG to prioritise the development of a support framework for implementation of Set 1 (cf. previous article). This suggests there may be a delay from the original scheduled date of May.

Amendments to IFRS 9 and IFRS 7: publication of an exposure draft

On 21 March 2023, the IASB published an exposure draft proposing amendments to IFRS 9 and IFRS 7 on the classification and measurement of financial instruments (available here). The comment period runs until 19 July 2023.

This publication is one of the standard-setting measures identified by the IASB after phase 1 of the Post-implementation Review of IFRS 9 – *Classification and Measurement* and mentioned in the feedback statement published at the end of last year (see Beyond the GAAP no. 172, December 2022).

Readers are reminded that the PiR of IFRS 9 has two further phases:

- phase 2 – *Impairment*, which will result in the publication of a Request for Information addressed to stakeholders in May 2023 (see Beyond the GAAP no. 174, February 2023 for details of the topics to be tackled in this phase);
- phase 3 – *Hedge Accounting*, which will not begin until 2024.

The proposed amendments contained in the exposure draft aim to:

- clarify when an entity should recognise and derecognise a financial asset or liability and introduce an exemption for the derecognition of a financial liability settled using an electronic payment system;
- clarify the criteria for classifying certain debt instruments as SPPI (solely payments of principal and interest):
  - with ESG-linked performance criteria;
  - with non-recourse features;
  - that are contractually linked instruments (CLI);
- make additions to the disclosure requirements of IFRS 7 on:
  - financial instruments where the timing or amount of the contractual cash flows may change upon the occurrence (or non-occurrence) of contingent events;
  - equity instruments designated at fair value through other comprehensive income (OCI).

This study presents each of these three aspects in more detail.

Date of recognition and derecognition of a financial asset or liability

In general

This issue originates from a referral to the IFRS IC in September 2021 concerning the date on which to derecognise a receivable that is settled using an electronic payment system. The question was whether the derecognition date was the date when the debtor initiated the transfer of funds or the date when the claim was settled.

The IFRS IC had tentatively concluded that:

- the derecognition date was the date on which the rights to the cash flows expire, which depends on the contractual and legal environment of the entity;
- the recognition date for cash received was the settlement date, i.e. the date on which the funds were actually available in the entity's bank account;
- when the two dates did not coincide (for example, because the date of derecognition of the receivable was earlier than the date of recognition of the cash), a receivable from the

financial intermediary had to be recognised.

The exposure draft (paragraph B3.1.2A) proposes to clarify that financial assets and liabilities should be recognised and derecognised on the settlement date, except:

- in the case of a regular way purchase or sale of financial assets, which may optionally be accounted for on the trade date;
- in the case of financial liabilities settled using an electronic payment system which are subject to the proposals set out below.

This proposal for amendments therefore essentially confirms the IFRS IC's tentative decision. As a reminder, its finalisation had been delayed due to mixed feedback from stakeholders, some of whom had pointed out the risk of calling into question long-established practices, the risk of application by extension to other payment methods or other transactions, and the cost and complexity of operational implementation.

Against this background, the comments received on this subject should be followed closely.

Financial liabilities settled using an electronic payment system

The exposure draft (paragraphs B3.3.8 - B3.3.10) introduces an accounting option enabling an entity that initiates an electronic payment in settlement of a financial liability to derecognise that liability before the settlement date.

This option would be available provided that the following three criteria are cumulatively met:

- the entity has no ability to withdraw, stop or cancel the payment instruction;
- the entity has no practical ability to access the cash to be used for settlement; and
- the settlement risk associated with the electronic payment system is insignificant.

The exposure draft clarifies that the settlement risk is insignificant if:

- the time between initiating a payment instruction and the cash being delivered is short; and
- the payment instruction follows a standard administrative process.

The option would exist for each electronic payment system used by the entity.

Conditions for classifying a financial asset as SPPI

As a reminder, a debt asset passes the SPPI test when its contractual cash flows are consistent with those of a basic lending arrangement. This classification usually results in the asset being recognised at amortised cost or at fair value through recyclable OCI, depending on the entity's business model.

ESG-linked debt assets

The exposure draft first sets out (paragraph B4.1.8A) to clarify the principles that underlie the concept of a basic lending arrangement and that apply to each component of the remuneration received by the lender. In our opinion, these clarifications can be summarised as follows:

- the analysis should focus on *what* an entity is being compensated for, rather than *how much* compensation an entity receives;
- the fact that contractual terms are common in the market in which the entity operates is not sufficient to establish the SPPI nature of these

terms (what these contractual terms compensate for must be considered);

- a change in the contractual cash flows of an instrument must be aligned with the direction and magnitude of the change in basic lending risks or costs.

The exposure draft goes on to clarify (paragraph B4.1.10A) how these principles apply to the SPPI classification of instruments with contractually specified changes in cash flows upon the occurrence (or non-occurrence) of contingent events:

- these changes in contractual cash flows should be taken into account in the SPPI analysis irrespective of the probability of the contingent event occurring, unless the clause is not "genuine" (i.e. it only applies in the case of an extremely rare, highly abnormal and highly unlikely event);
- to be consistent with the cash flows of a basic lending arrangement, the occurrence (or non-occurrence) of the contingent event must be specific to the borrower (this is the case if it depends on the debtor achieving a contractually specified target, even if the same target is included in other contracts for other debtors);
- to be consistent with the cash flows of a basic lending arrangement, the resulting contractual cash flows must represent neither an investment in the debtor nor an exposure to the performance of specified assets.

Two examples illustrate how this approach applies to loans indexed to ESG performance criteria (paragraphs B4.1.13 and B4.1.14).

Debt instruments with non-recourse features

The exposure draft proposes to clarify that the analysis of whether a debt asset with non-recourse features is SPPI should be done in two stages:

- first, it is necessary to determine whether the debt instrument has non-recourse features. A financial asset has non-recourse features if an entity's exposure is limited to the cash flows generated by specified underlying assets both over the life of the instrument and in the case of the borrower's default. In other words, throughout the life of the financial asset, the lender is primarily exposed to the specified assets' performance risk rather than the debtor's credit risk (paragraph B4.1.16A);
- if the debt instrument has non-recourse features, an entity must consider factors such as the legal and capital structure of the debtor (e.g. a dedicated entity), including, but not limited to, the extent to which any shortfall in cash flows generated by the underlying assets is expected to be absorbed by subordinated debt or equity instruments issued by the debtor (see B4.1.17A).

Contractually linked instruments

Contractually linked debt instruments are instruments usually issued by a special purpose vehicle and backed by financial assets held by the vehicle.

The exposure draft clarifies that the following conditions, *inter alia*, must be met for the asset to be classified as SPPI:

- payments to investors are prioritised through a waterfall payment structure resulting in a disproportionate allocation of these losses (paragraph B4.1.20). From this point of view, the contractually

linked instrument is special kind of non-recourse financial asset;

- this structure presupposes the existence of multiple instruments (paragraph B4.1.21), i.e. at least two distinct types of instruments that are not *pari passu*. In the case where an entity, having transferred receivables to a special purpose vehicle, retains an economic exposure to the transferred receivables (for example, through the subscription of a subordinated debt issued by the SPV), this exposure should not be taken into account in determining whether the debt instruments issued by the SPV are classified as CLI. This is because in this case there is really only one type of instrument issued by the SPV to third parties, namely senior debt. The latter are then required to apply the provisions on non-recourse debt assets to determine whether or not the asset qualifies as SPPI (paragraph B4.1.20A);
- the scope of underlying financial assets to consider for the analysis can include instruments that lie partly outside the scope of IFRS 9, such as lease receivables generating flows of an equivalent nature to those of an SPPI instrument (paragraph B.4.1.23).

Disclosures required in the notes and arrangements for first application

Disclosures to be provided in the notes (amendments to IFRS 7)

The exposure draft proposes to amend IFRS 7 to require the following disclosures:

- detailed information about financial instruments where the timing or amount of the contractual cash flows may change upon the occurrence (or non-occurrence) of contingent events (paragraph 20B), including:
    - a qualitative description of the nature of the contingent event;
    - quantitative information about the range of changes to contractual cash flows that could result from these contractual terms;
    - the gross carrying amount of financial assets and amortised cost of financial liabilities subject to these contractual terms.

    These disclosures would be required for each class of financial assets measured at amortised cost or fair value through OCI, as well as for financial liabilities carried at amortised cost (paragraph 20C).
- for equity instruments measured at fair value through OCI without recycling (paragraph 11A), the amount of change in the fair value during the period, showing separately the changes related to investments derecognised during the reporting period and those related to investments held at the end of the reporting period.

Requirements for first application of these amendments

For the amendments to IFRS 9, the exposure draft proposes retrospective application in accordance with IAS 8 (paragraph 7.2.47), except that:

- an entity would not be required to restate prior periods (paragraph 7.2.48) but may do so if, and only if, it is possible to do so without the use of hindsight. If an entity does not restate comparative information, the effect of first-time application of the amendments would be recognised in opening retained earnings (or other component

of equity, as appropriate) in the first year of application;

- an entity shall disclose, for each class of financial assets that changed measurement category as a result of first applying the amendments, (i) the previous measurement category and carrying amount determined immediately before the entity applied these amendments; and (ii) the new measurement category and carrying amount determined immediately after the entity applied these amendments (paragraph 7.2.49).

The exposure draft proposes that the IFRS 7 amendments be applied when the entity applies the amendments to IFRS 9.

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[1] Where permitted under applicable country laws

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