

IFRS 16: Easements

Extract, IFRS Discussion Group Report on the Meeting – May 30, 2017

Easements and right-of-way can take many different forms such as being perpetual or time based. Easements can also be subject to different rights and conditions (for example, transportation infrastructure can run over or under a farmer's fields).

Paragraph BC78 in the Basis for Conclusions on IFRS 16 *Leases* indicates that the IASB decided not to specifically exclude long-term leases of land from the standard. However, paragraph 3 of IFRS 16 indicates that rights held by a lessee under licensing agreements are within the scope of IAS 38 *Intangible Assets*.

Questions have arisen around whether easements are within the scope of IFRS 16 and what is the appropriate unit of account for the right to use a defined space.

Fact Pattern

- *Example A:* A leased warehouse is situated on land that is also subject to a right to use agreement for the land. The lessee does not obtain ownership or title to the underlying land and must make payment to the landowner for the use of the land each year.
- *Example B:* A pipeline runs under a farmer's field. The pipeline entity has a right-of-way to access the property for building and maintaining the pipeline. The farmer can continue to utilize the land above the pipeline for growing crops but cannot build any structures on the land over the pipeline.

Some entities may choose to apply IFRS 16 to leases of intangible assets based on paragraph 4 of IFRS 16. However, this policy choice is not further considered in the discussion of the issue below.

Issue: Are easements within the scope of IFRS 16?

View A – Yes, easements are within the scope of IFRS 16.

Proponents of this view note that easements are rights to use land. The IASB specifically decided not to exclude long-term land rights from the scope of IFRS 16. The appropriate unit of account is the defined space utilized by the building or the pipeline.

The scope exemptions for IAS 38 are not automatically applied to easements. Entities need to consider the underlying terms and conditions of the arrangement.

View B – No, easements are considered licensing agreements that are within the scope of IAS 38.

Proponents of this view note that easements have historically been viewed to be within the scope of IAS 38. The issuance of IFRS 16 is not seen to have an effect on previous conclusions.

Easements are only the right to use a portion of land, therefore, guidance on long-term land rights is not applicable.

View C – It depends.

The rights provided by the easements need to be assessed against the definition of a lease in IFRS 16.

Example A appears to meet the definition of a lease because the arrangement conveys a right to control the use of the land for a period of time in exchange for consideration. The lessee has the right to obtain substantially all of the economic benefits from the use of the land and the right to direct the use of the land.

Example B differs from Example A because the arrangement does not convey the right to control the use of the land for a period of time. The farmer has the right to obtain substantially all of the economic benefits from the use of the land and the right to direct the use of the land.

In many cases, the critical factor would be whether or not the easement holder has exclusive use of a defined space or whether the land owner has significant economic benefits beyond the easement.

The Group's Discussion

Group members noted that this issue is being discussed internationally and provided some preliminary views for consideration.¹

One Group member leaned towards easements being within the scope of IFRS 16 for the fact patterns presented above (View A). This view is based on the notion that some amount is paid for the use of the land, which seems more aligned with the objective of IFRS 16.

A question was raised regarding whether easements within the extractive industries may also fit within the scope exemption in paragraph 3(a) of IFRS 16. This paragraph states an entity shall apply this standard, except for "leases to explore for or use minerals, oil, natural gas and similar non-regenerative resources."

The presenter noted that in certain jurisdictions, if the material below the ground is owned by the government and the government grants the entity a license to explore, the lease would be excluded from IFRS 16. However, if the material is below the ground but there is a private land owner that owns the rights to access the land above the ground, the rights to access both above and below the ground may fit within the scope exemption of paragraph 3(a) of IFRS 16.

Another Group member commented on horizontal and vertical rights, raising the question of whether IFRS 16 is limited to horizontal rights (i.e., rights to use an identified asset that is within sight as opposed to determining if another right exists below the ground).

One Group member thought it is important to determine whether the lessee has the right to obtain substantially all the economic benefits from the use of the asset throughout the period. Paragraph B20 of IFRS 16 states, in part, that "a capacity or other portion of an asset that is not physically

¹ For example, at its [May 10, 2017](#) meeting, the U.S. Financial Accounting Standard Board discussed whether easements would be within the scope of Topic 842, *Leases*, when currently accounted for as intangible assets. Given it may be reasonable to have more than one view on this question, the Board directed the staff to perform additional outreach with preparers, auditors, and users.

distinct (for example, a capacity portion of a fibre optic cable) is not an identified asset, unless it represents substantially all of the capacity of the asset and thereby provides the customer the right to obtain substantially all of the economic benefits from use of the asset.” For the fact patterns presented above, this Group member leaned more towards View B.

The presenter noted that the preliminary discussions happening in practice highlight the need to understand all the specific rights and obligations in an agreement before being able to determine whether IFRS 16 or IAS 38 applies.

The Group’s discussion raises awareness about this item. No further action was recommended to the AcSB.

(For a full understanding of the discussions and views expressed, listen to the [audio clip](#)).