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Subject: Comments on Tentative Agenda Decision and comment letters: Guarantees Issued on Obligations of Other Entities

1) I thank the committee for giving an opportunity to express my Comments on Tentative Agenda Decision and comment letters: Guarantees Issued on Obligations of Other Entities
2) My view is as follows.

Standards/Law	Relevant Para	Interpretation	Practical insights
Goods and Services Tax Act, in India	Sub-rule (2) of rule 28	Guarantee cannot be given free of cost it should have charges or if given free nominal value of 1% of the guarantee offered should be considered as an Income for Tax. Law in India is requiring guarantee to charge fee and any services on which fee is charged can only be a financial asset as an amount is receivable/collectible.	Amount will be collected in the form of cash from the holder of the guarantee. In case of related party like subsidiary or JV or Associate normally fund flow does not happen and in future gets converted as equity or loan.
Indian Income Tax Act, 1962	Rule 10TD of the Indian Income Tax	A rate of 1% of the guaranteed amount as the safe harbour rate. Safe harbour is defined as circumstances in which the tax authority shall accept the transfer price declared by the taxpayer to be at arm's length.	Amount will be collected in the form of cash from the holder of the guarantee. In case of related party like subsidiary or JV or Associate normally fund flow doesn't happen and in future gets converted as equity or loan.

			If accounted as equity on day 1 will have impact as per IAS 28 for JV and Associate which would require clarification as there will be no additional income for this accounting impact. As regards IAS 27 cost to be arrived and accounted as additional paid in equity and investment without increase in voting rights & share of profits/residual interest.
IFRS 9	Definition of Financial Guarantee Contract [FGC]	A contract that requires the issuer to make specified payments to reimburse the holder for a loss it incurs because a specified debtor fails to make payment when due in accordance with the original or modified terms of a debt instrument.	Debt instruments are not defined. Meaning of debt instrument as per Reserve Bank of India: - According to the Reserve Bank of India (RBI), a debt instrument is a financial contract that represents borrowed funds and includes repayment terms and interest rates. When guarantee is issued it doesn't represent borrowed funds and it's a utilisation out of unfunded limit given by Bank. Accordingly, it's not an FGC until the event of liability gets triggered and non-compliance is there from the holder of the guarantee.
IFRS 17	Paragraphs 8–8A of IFRS 17 Definition: - A contract under which one party (the issuer)	if a contract's primary purpose is the provision of services for a fixed fee (and all the conditions set out in paragraph 8 of IFRS 17 are met), an entity may choose to apply either IFRS 15 or IFRS 17 to that contract. The entity may make that choice contract by contract, but the choice for each contract is irrevocable.	Para 8 of IFRS 17 is not fulfilled as cash payment is made if guarantee is invoked. Amount to be paid after guarantee is invoked can be limited as per terms but generally it will be equal to the policy holders' obligations.

	accepts significant insurance risk from another party (the policyholder) by agreeing to compensate the policyholder if a specified uncertain future event (the insured event) adversely affects the policyholder.		
IAS 37	Para 10	A contingent liability is: a) a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or b) a present obligation that arises from past events but is not recognised because: (i) it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or (ii) the amount of the obligation cannot be measured with sufficient reliability.	It can be disclosed if other IFRS doesn't apply

From the above it is clear that

a) Guarantee is not a debt instrument.
b) Income needs to be offered to tax, and income needs to be received in India.

c) Other countries might not have a legal requirement to collect fees.

Accordingly, guarantee can be accounted as per IFRS 9 as financial asset receivable and Income as per IFRS 15 for services rendered.

Some contracts can fall under IFRS 17 or under IAS 37

Overall guidance's are available in different standards but if specific clarifications can be provided on implications with respect to IAS 27, 28, 37 and IFRS 10 would make it easier to apply. As these accounting doesn't provide additional returns to the issuer during consolidation, but income can be accounted as investments even when shares are not issued which will get disclosed as additional paid in equity in holders book.

I concur that views stated above are my individual opinion and not of any organization where I am working or not of any committee or organization I am connected with.

Regards

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