

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

**Re: The IFRS Interpretations Committee's tentative agenda decision on
IFRS 11 – *Joint Arrangements: Classification of Joint Arrangements***

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 (IFRS IC) tentative decision not to add to its agenda the request for clarification it received on the application of IFRS 11 – *Joint Arrangements* in relation to the assessment of the '*other facts and circumstances*'.

ESMA supports the IFRS IC's draft rejection stating that the assessment of '*other facts and circumstances*' should be focused on whether those facts and circumstances create enforceable rights to the assets and obligations to the liabilities. ESMA considers that this tentative decision clarifies the interaction between paragraphs 14 and B30 of IFRS 11.

ESMA notes that the January 2014 IFRIC Update states that the IFRS IC will deal with additional matters¹ related to the assessment of '*other facts and circumstances*' and develop examples or other implementation material. ESMA is of the view that when developing such examples, other implementation guidance or

¹ Should the assessment of « other facts and circumstances » be based only on contractual (and legal) enforceable terms? Does the fact that the output from the joint arrangement is sold at a market price prevent the joint arrangement from being classified as a joint operation, when assessing "other facts and circumstances"? Does financing from a third party prevent an arrangement from being classified as a joint operation? Does the nature of the output produced by the joint arrangement determine the classification of a joint arrangement when assessing "other facts and circumstances"? When assessing "other facts and circumstances" in the case in which parties are taking substantially all the output, is the assessment based on volumes or monetary values?



educational material, the IFRS IC should follow the guidance provided by this agenda decision. That is to say that the assessment of *'other facts and circumstances'* shall focus on those that create enforceable rights to the assets and obligations for the liabilities.

As a last point we note that the IFRS IC considered during the November 2013 meeting that among a list of issues related to IFRS 11, the issue related to *'how the parties to a joint operation should recognised assets, liabilities, revenues and expenses, especially if the parties' interests in the assets and liabilities differ from their ownership interest in the joint operation'* was a priority issue for further consideration. ESMA believes that this is an important topic and would encourage the IFRS IC to consider it as soon as possible, especially as IFRS 11 is currently being implemented across the EU.

We would be happy to discuss these issues further with you.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'S Maijoor', written over a horizontal line.

Steven Maijoor

Chair

European Securities and Markets Authority