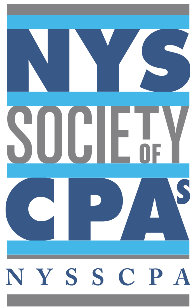


August 5, 2024

IFRS Foundation
Columbus Building
7 Westferry Circus
Canary Wharf
London E14 4HD
UK

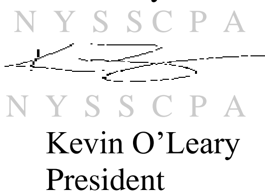
By E-mail: commentletters@ifrs.org

Re: Exposure Draft – Contracts for Renewable Electricity: Proposed amendments to IFRS 9 and IFRS 7

The New York State Society of Certified Public Accountants (NYSSCPA), representing more than 19,000 CPAs in public practice, business, government and education, welcomes the opportunity to comment on the above-captioned proposed regulations.

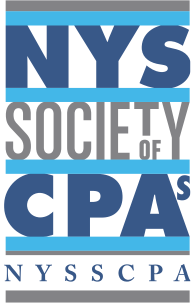
The NYSSCPA's International Accounting and Auditing Committee deliberated the exposure draft and prepared the attached comments. If you would like additional discussion with us, please contact Jean-Pierre Henderson, the chair of the International Accounting and Auditing Committee, at jphenderson@cfgi.com, or Keith Lazarus, NYSSCPA staff, at 212-719-8378.

Sincerely,



Kevin O'Leary
President

Attachment



NEW YORK STATE SOCIETY OF

CERTIFIED PUBLIC ACCOUNTANTS

COMMENTS ON

EXPOSURE DRAFT – CONTRACTS FOR RENEWABLE ELECTRICITY: PROPOSED AMENDMENTS TO IFRS 9 AND IFRS 7

August 5, 2024

<u>Principal Drafter</u>

Jean-Pierre Henderson

NYSSCPA 2024–2025 Board of Directors

Kevin P. O'Leary, *President*
Kevin Matz, *President-Elect*
William H. Dresnack, *Secretary/Treasurer*
Katelyn N. Kogan, *Vice President*
Shmueli Milecki, *Vice President*
William D. Ryan III, *Vice President*
John M. Spatola, *Vice President*
A'Isha Torrence, *Vice President*
Calvin H. Harris Jr., *ex officio*
Mathieu Aimlon
Jamie L. Atkinson
Kurt Button
Anthony S. Chan
Minhui Chen
Elysa K. Dauerman
Frank J. DeCandido
Timothy J. Doyle, Jr.
Michael R. Durant
Nicholas Eells
Mark L. Farber
Stephanie Gigliotti
Orumé A. Hays
Robert J. Huether
William C. Huether
Philip J. London
Kelly M. Mandell-Klumpp
Philip Marciano
Andrew M. Mintzer
Steven M. Morse
Andrea M. Pagano
Ronald F. Ries
Lenore Sanchez
William F. Schwenk
Mark M. Ulrich
Natalie Verbanac
Liren Wei
David G. Young

NYSSCPA 2024–2025 Accounting and Auditing Oversight Committee

Sean C. Prince, *Chair*
Joseph Farrenkopf
Jean-Pierre Henderson
Elliot L. Hendler
Richard C. Jones
Diane L. Jules
Jennifer A. Kartychak
Angela V. Katehis
Steven R. Leidenfrost
Bonnie S. Mann Falk
Renee Mikalopas-Cassidy
Yigal Rechtman
Robert M. Rollmann
Nick Tsoukaris

NYSSCPA 2024–2025 International Accounting and Auditing Committee

Jean-Pierre Henderson, *Chair*
Andreas A. Alexandrou
Kathleen M. Bakarich
Francesco Bellandi
Michael Burke
Mitchell A. Davis
Jeffery M. Gellman
Yamei Guo
Charles A. Harris II
Nicholas Hart
Richard C. Jones
Diane L. Jules
Evan Luo
Michael R. McMurtry
Renee Mikalopas-Cassidy
Andrew M. Mintzer
Sean C. Prince
William M. Stocker III
Jingwei Tang
George I. Victor
Lily H. Wang

NYSSCPA Staff

Keith N. Lazarus

New York State Society of Certified Public Accountants

Comments on

Exposure Draft – Contracts for Renewable Electricity: Proposed amendments to IFRS 9 and IFRS 7

The New York State Society of Certified Public Accountants (NYSSCPA welcomes the opportunity to respond to the invitation to comment on Exposure Draft – Contracts for Renewable Electricity (Proposed amendments to IFRS 9 and IFRS 7) (the Exposure Draft).

We support the objective to clarify some requirements in IFRS 9 to reduce diversity in practice and address known practice issues. We agree that several of the proposals will increase comparability between entities. However, there are some proposals for which, whilst we appreciate the IASB's efforts, we suggest the IASB consider improving on because we think they could increase rather than reduce diversity in practice.

The appendix to this letter sets out our responses to the questions in the Exposure Draft (ED). Our priority issues are:

- **Convergence with U.S. GAAP:** We recommend more convergence with U.S. GAAP to eliminate any difference in practice.
- **Scope:** We have some reservations regarding the notion of "exposes the purchaser to substantially all the volume risk" used in 6.10.1(b). The concept of "substantially all" is already used in the analysis of asset derecognition and, in practice, results in a very high threshold. We question whether such a high threshold is really required or if a lower one would be more suitable in practice.
- **Renewable Energy Certificates (RECs):** We note that the proposed amendment does not consider the accounting treatment of RECs. We understand that this decision has been driven mainly by the objective to address the issues related to energy contracts in a timely manner. However, while we agree with this prioritization, we encourage the Board to consider providing clarification on the accounting for RECs in a future project.
- **Power Purchase Agreements:** There are various ways and structures in place across countries, and we therefore welcome the Board proposal to consider the purpose and design of the PPA contract. We consider that the "design and operation of the market" is also a relevant concept to include to help address some legal and operational constraints of markets. Many markets require the use of intermediaries (i.e., to facilitate the transfer to and from the grid); we therefore encourage the Board to make explicit that their role must be considered in the context of the specific market structure for the purpose of the assessments to be performed in the context of this amendment.
- **Hedge accounting:** We encourage the Board to address more broadly the so-called "load following swap" issue that is addressed in a limited way in the context of this narrow scope amendment. However, that would deserve a wider consideration to fix situations in which the hedge is economically perfect by construction but where the hedge accounting cannot be implemented due to the highly probable criterion.

- **“Own-use requirements:”** More generally, we have found that the quantity of information that is required to be disclosed is more significant and disproportionate compared to the other contracts classified as “own-use” outside the scope of this amendment.

- **Disclosure redundancies:** We have identified some redundancies between the disclosures required by the proposed amendment and already existing requirements of IFRS 7 and IFRS 13 on financial instruments measured at fair value. We also have some concerns on the cost-benefit ratio of some requirements (e.g. level of detailed information required for instruments in the scope of paragraph 6.10.1 but that would not actually benefit from the amendment).

- **Disclosure objectives:** We do not understand how some of the proposed requirements meet the disclosure objectives. We consider that some of the proposed requirements relate more to sustainability reporting or management commentary than financial reporting. We recommend simplifying these disclosure requirements.

Appendix

Question 1: Scope of the proposed amendments
Paragraphs 6.10.1–6.10.2 of the proposed amendments to IFRS 9 would limit the application of the proposed amendments to only contracts for renewable electricity with specified characteristics. Do you agree that the proposed scope would appropriately address stakeholders' concerns (as described in paragraph BC2 of the Basis for Conclusions on this Exposure Draft) while limiting unintended consequences for the accounting for other contracts? Why or why not? If you disagree, please specify with which aspect of the proposals you disagree. What would you suggest instead and why?

Response: Although we agree with some aspects of the scope of the proposed amendments, we would like to highlight a few areas for the Board to consider as follows:

- We observe, as acknowledged in paragraph BC11 of the Basis for Conclusions to the ED, that contracts for renewable electricity often include two components 1) an electricity component" that is either physical subject to delivery or notional in the form of an embedded swap linked to the electricity price and 2) a renewable energy certificate (REC) component. We therefore suggest clarifying that the amendments apply only to the electricity component of the contract.

- We have observed many situations where, after entering into a "pay as produced" PPA contract that creates exposure to volume risk as defined by the exposure draft, an entity then enters into an agreement with another counterparty to shift its economic exposure from "as produced" to "as contracted." Such contract does not modify the expected "bell profile" of the production, but rather transfers the uncertainty of the "nature dependent feature" to a third party. We consider that such agreement should not be a reason to exclude the initial PPA agreement from the scope of this ED. We therefore suggest that the Board clarify that volume risk is a characteristic of the energy contract assessed but does not have to be retained by the purchaser. This means that risk management decisions to monitor or hedge the volume risk should not lead to an exclusion of the initial energy contract from the scope of this proposed amendment. Such clarification could be articulated with an explanation of how the notion of "substantially all" would be applied in such situations.

Question 2: Proposed "own-use" requirements
Paragraph 6.10.3 of the proposed amendments to IFRS 9 includes the factors an entity would be required to consider when applying paragraph 2.4 of IFRS 9 to contracts to buy and take delivery of renewable electricity that have specified characteristics. Do you agree with these proposals? Why or why not? If you disagree, please specify with which aspect of the proposals you disagree. What would you suggest instead and why?

Response: The proposed amendments in para 6.10.3 (a) in relation to purpose, design and structure of the contract could be further enhanced. Similar approach could be taken as how IFRS 10.B5 - 8 provides guiding principles relating to purpose and design of the

investee in assessing control. This could be done in the form of some commonly observed features of the purpose, design and structure of contracts that would be scoped in or, alternatively, a non-exhaustive list of indicators. Providing guiding principles would be helpful in promoting consistent interpretation and application of the said requirements

Question 3: **Proposed hedge accounting requirements**
Paragraphs 6.10.4–6.10.6 of the proposed amendments to IFRS 9 would permit an entity to designate a variable nominal volume of forecast electricity transactions as the hedged item if specified criteria are met and permit the hedged item to be measured using the same volume assumptions as those used for measuring the hedging instrument. Do you agree with these proposals? Why or why not? If you disagree, please specify with which aspect of the proposals you disagree. What would you suggest instead and why?

Response: Defining the hedged exposure item by reference to a characteristic of the hedging instrument is a deviation from general hedge accounting principles, but we agree that it is the relevant approach to implement in this specific situation. However, as this concept is new and may raise multiple questions on the hedging documentation and the related effectiveness tests, we encourage the Board to consider including a comprehensive illustrative example.

We would also encourage the Board to address more broadly the so-called "load following swap" issue that is addressed in a limited way in the context of this narrow scope amendment. However, that would deserve a wider consideration to fix situations in which the hedge is economically perfect by construction, but where the hedge accounting cannot be implemented due to the highly probable criterion. Indeed, what an entity is trying to hedge in such situation is not the risk associated with the quantity, but the risk associated with the price. We understand the Board decision not to address this issue comprehensively in the context of issuing this amendment promptly. But we strongly recommend to the Board to consider this issue in the upcoming Post Implementation Review of IFRS 9 hedging requirements.

Question 4: Proposed disclosure requirements
Paragraphs 42T–42W of the proposed amendments to IFRS 7 would require an entity to disclose information that would enable users of financial statements to understand the effects of contracts for renewable electricity that have specified characteristics on: (a) the entity's financial performance; and (b) the amount, timing and uncertainty of the entity's future cash flows. Do you agree with these proposals? Why or why not? If you disagree, please specify with which aspect of the proposals you disagree. What would you suggest instead and why?

Response: We observe that the requirements of paragraph 42W appear to create more onerous requirements on these types of contracts than what would be required for other FVPL commodity contracts. We believe for risks and judgements, IAS 1 and IFRS 13 would already require the appropriate disclosures. It is unclear why increased emphasis is being placed on these contracts, particularly if the trader regularly trades in and out of positions and doesn't hold the contract for the full contract duration.

Paragraph 42T (b) (ii) states that an entity shall disclose "The volume of renewable electricity a seller under the contracts expects to sell or a purchaser under the contracts expects to

purchase over the remaining duration of the contracts." With reference to the word 'expects', it is uncertain to which level of confidence this relates. If it is meant to mean 'probable', which is normally understood to be a probability greater than fifty percent, this should be stated.

Paragraph 42U states, "Specifically, an entity shall disclose the proportion of renewable electricity covered by the contracts to the total electricity sold for the reporting period." Given the objective stated at the start of the paragraph (and per paragraph 42W), our members are unclear whether there is more that is expected to be disclosed on this point. If there is not, then the disclosure requirement may not be necessary and could be deleted. In addition, it should be clarified if this disclosure should differentiate between contracts to sell versus hedges of those contracts (i.e., whether the 'renewable electricity covered by the contracts' is the gross amount, or the net amount offset against the hedge).

Paragraph 42V a) states "*The proportion of renewable electricity covered by the contracts to the total net volume of electricity purchased.*" Our members are unclear how this is determined and whether it is the volume as per contract or total electricity purchased less excess sales (i.e., the net volume total purchased, after excess sales). In addition, by asking for the proportion on renewable energy contracts specifically, the disclosure appears to be implementing broader sustainability reporting objectives into the accounting standard. IFRS 7 does not seem to be the appropriate financial standard for this purpose.

With respect to paragraphs 42V (b), (c) and (d), it is unclear why the disclosures in (b) are relevant and why it is necessary to report on other types of purchases. Further, the relevance of (d) is unclear. If (c) is an average for the year and the entity bought energy at times when prices were above or below the average, then there would be a difference. But it is unclear why this is useful information and why such a detailed disclosure is required. The disclosures should be more tailored to the own use issue at hand.

For paragraph (d), it is unclear how there might be a substantial difference between (b) multiplied by (c), from the actual total cost incurred by the entity to purchase the volume of electricity in (b); is it because they have historically entered into a contract which turned out to be very profitable or unprofitable for them? Furthermore, it is unclear how this information fits into the disclosure objective of providing information to enable users to understand how these contracts affect the amount, timing and uncertainty of future cashflows.

Question 5: Proposed disclosure requirements for subsidiaries without public accountability

Paragraphs 67A–67C of the proposed amendments to the forthcoming IFRS 19 Subsidiaries without Public Accountability: Disclosures would require an eligible subsidiary to disclose information about its contracts for renewable electricity with specified characteristics. Do you agree with these proposals? Why or why not? If you disagree, please specify with which aspect of the proposals you disagree. What would you suggest instead and why?

Response: We are less supportive of the proposed disclosures requirements. We recommend simplifying and downsizing these disclosure requirements for several reasons:

We do not understand how the proposed requirements meet the disclosure objectives mentioned in paragraph 42T. We encourage the Board to better link the disclosure requirements with this objective. Specifically, the requirement of paragraph 42U (proportion

of renewable energy) does not seem to be useful in addressing the disclosure objective. Such requirement relates more to sustainability reporting or management commentary than financial reporting,

For contracts that will be measured at fair value on the balance sheet, we note that information required by the proposed amendment is to a certain extent redundant with the information already required by IFRS 7 and IFRS 13.

We understand and support the principle that any exception shall come with appropriate disclosures. However, we found that the level of details of the required disclosure is significant and disproportionate compared to the disclosure requirements that applies to other contracts qualified as own use outside the scope of this amendment. One could also question the merits of providing information on contracts that meet the definition of paragraph 6.10.1 but does not benefit from the amendment exemptions (because they both fail the own-use qualification and are not part of a hedging relationship).

Finally, another example of potential simplification could be to require the information listed in paragraph 42V only if the entity does not provide the fair value of the contract (either as a measurement on the balance sheet or a disclosure in accordance with paragraph 42T). We acknowledge that paragraph 42V is focusing on qualitative information about the impact over the period whereas the fair value brings quantitative information about future periods; but if the fair value of the contracts is provided, paragraph 42V does not present a beneficial cost to benefit ratio.

Question 6: Transition
The IASB proposes to require an entity to apply: (a) the amendments to the own-use requirements in IFRS 9 using a modified retrospective approach; and (b) the amendments to the hedge accounting requirements prospectively. Early application of the proposed amendments would be permitted from the date the amendments were issued. Do you agree with these proposals? Why or why not? If you disagree, please specify with which aspect of the proposals you disagree. What would you suggest instead and why?

Response: We generally agree with the Board’s proposed approach and would like to take this opportunity to draw to the Board’s attention the following considerations:

- Allowing the retrospective application of hedge accounting for renewable electricity contracts. As soon as the perfect matching of the quantity between the hedging instrument and the hedged item is acknowledged, we do not understand why an entity would be prevented from applying it retrospectively. This should be an accounting policy choice to avoid any “contract by contract” insights.

- Additionally, in a situation where the entity previously designated the hedged item as a fixed quantity that has triggered ineffectiveness we ask that the Board reconsider how an entity will be required to amend the designation of the hedged item as proposed by paragraph 7.2.52. The hypothetical derivative and recycled amount accumulated in OCI will be mismatched due to the previously recognized ineffectiveness that would not have occurred if the entity had the option to apply the amendment from the inception of the hedging relationship (i.e., designated as 100% retrospectively). We believe this would increase the usefulness of the information without using hindsight.