Issues on applicability/implementation of Ind AS received by Ind AS Technical Facilitation Group

Issue 1:

Representation on the concerns experienced by members of Power Industry regarding depreciation method of Subsidiary & Parent Company is **enclosed at pages 6 to 8 (Annexure A)** for the consideration of ITFG**.**

Issue 2:

Government of India is providing Capital grant on various turnkey projects cost to industries. Suppose a Company A has been granted Capital grant of 40% of Project Cost (useful life is 20 years). Say Company A spent Rs. 10,000 crore for project which includes for purchase of Land (Non-depreciable Asset) around Rs.500 crore. Company A has implemented Ind AS w.e.f. 01.04.2015 and Company A has opted revenue approach (Capital grant including received for Non-depreciable asset amortised as income over useful life of the depreciable assets) for accounting of capital grant as there was no other option available at that time.

As per paragraph 10A of Ind AS 20 has prescribed the methodology of amortising the government grant received for depreciable as well as non-depreciable assets (i.e. Land). In case of non-depreciable asset the grant has to be amortised on the basis of useful life of depreciable asset constructed over the said land. Further even if no depreciable asset was constructed on the non-depreciable asset then same has to be amortised on the basis of any expenses incurred on fulfilment of the conditions upon which the grant was received.

The Company A based on the above guidance given in Ind AS 20 amortised the proportionate Capital grant received including Non-depreciable asset based on the progressive capitalisation of the project. Say in FY 2016-17 on 01.04.2016 the capitalised value is Rs. 1000 crore including the land value capitalised Rs. 10 crore. The Company has the Capital grant of Rs. 400 crore and treated the same as deferred revenue income. Further, the proportionate capital grant has been amortised as income through P&L i.e., 20 crore (400/20).

Whether the above accounting treatment is as per Ind AS 20 or not and Further, clarify what is the proper accounting treatment for the Capital Grant received for Non-depreciable assets.

Issue 3:

Query for the kind consideration of Ind AS Transition Facilitation Group (ITFG) is **enclosed at pages 9 to 17 of the agenda (Annexure B)**.

Issue 4:

- A company has issued non-convertible non-participating 0% preference shares.

- It proposes to redeem these preference shares prematurely.

- Please note that on account of Ind AS 109, capital reserve has been created in the books of the Company to the extent of the difference between the fair value and present value of the Preference shares. The present value of the shares is shown as financial liability under borrowings in the financial statements.

- Before redemption, capital reserve is debited and preference share a/c is credited to the extent of balance interest expenditure to be booked – unwinding.

- Retained earnings are sufficient to redeem preference shares at par, in full.

Query:

i. How will the impact of pre redemption of preference shares be given in the books?
ii. Do we have to create Capital Redemption Reserve Account?
iii. What will happen to the capital reserve account created on initial recognition?

Issue 5:

Company X has taken interest free loan of Rs. 13 Cr. to be repayable in 20 quarterly instalments. Due to financial crunch the company approach the lender for rescheduling of the loan. The revised terms are the company will have to pay Rs. 15 Cr. In 26 quarterly Instalment and will be required to pay the transaction cost of Rs. 10 lacs.

There is cash inflow of Rs. 13 Cr. And cash outflow over the period will be 15 Cr. Against the said loan. No interest is charged separately.

Issues:

i. In view of above the additional amount being Rs. 2 Cr. (15-13) payable for increasing the repayment term is treated as finance / interest cost?
ii. If the answer to above is affirmative and the additional amount is considered as finance / interest cost. How the same is to be treated in Ind AS.
iii. If the Answer to the question 1 is negative then how the additional amount payable is to be accounted in books and treatment of the same as per Ind AS.
iv. What will be the treatment of the transaction cost of Rs. 10 lacs?
v. How treatment of question 2 & 3 will impact the treatment of transaction cost?

Issue 6:

XYZ LLP is formed in FY 2019-20 under LLP Act, 2008. LLP being incorporated under LLP Act, has to follow governing law for the purpose of preparation of financial statements. LLP Act does not define specific framework for the purpose of preparation of financial statements. However, paragraph 34(1) mentions following:

"The limited liability partnership shall maintain such proper books of account as may be prescribed relating to its affairs for each year of its existence on cash basis or accrual basis and according to double entry system of accounting and shall maintain the same at its registered office for such period as may be prescribed."

Also, there are two frameworks i.e. (1) Indian GAAP and (2) Ind AS. Both are defined by ICAI. When there is no specific framework defined by the governing framework in which entity is covered (in our case LLP Act), entity can adopt any framework which presents a true and fair view of the financial statements.

Accordingly, LLP is intending to adopt Ind AS issued by ICAI for the purpose of preparation of financial statements.

Issue:

Whether LLP can prepare its financial statements under Ind AS when the LLP Act does not specifically directs or prohibits which framework to be used for the purpose of preparation of financial statements.

Issue 7:

A Ltd. has transferred the business pursuant to the scheme of demerger to B Ltd. (a wholly owned subsidiary of A Ltd.). Consideration for demerged business is payable to the shareholders of A Ltd. and not A Ltd. Consideration is paid by way of issue of shares of B Ltd.

Scheme of Demerger is required to be approved by NCLT.

Issue:

(i) Whether transfer of net assets of demerged business by A Ltd. is required to be accounted in Reserves and Surplus.
(ii) If the Company has various reserves (i.e. Capital Reserve, Security Premium, Retained Earnings etc.), can the net assets of the demerged business shall be adjusted against Capital Reserve/Security Premium or can be shown separately as negative reserves arising on demerger instead of adjusting against any reserves.

(iii) Will the answer of above 1 and 2 be different in case consideration is paid in cash to the shareholders of A Ltd.

(iv) Will the answer of above 1, 2 and 3 be different in case it is not through a scheme of demerger and but by way of slump sale.

Issue 8:

A Ltd. has investment in Subsidiary Company namely B Ltd. A Ltd. has transferred its whole investment in B Ltd. to other subsidiary Company of A Ltd., namely C Ltd. Thus, at consolidated financial statement level no change in ownership. Consideration for transfer of Investment in B Ltd. is paid to A Ltd. Sale of Investment is through a scheme of demerger approved by NCLT. Scheme requires accounting as per Ind AS.

B Ltd. constitutes a business and fulfils the definition of business as defined in Ind AS 103 – Business Combination.

As per Ind AS 27 Para 10, when investment is classified as held for sale it shall be accounted in accordance with Ind AS 105 Non-current assets held for sale.

Issue:

(i) When A Ltd. transfer its investment in B Ltd. to C Ltd., where gain or loss arising on such transfer shall be accounted in separate financial statements of A Ltd.

Para 10 of Ind AS 27 requires to account it as per Ind AS 105. No specific treatment is given under Ind AS 103 from Seller's perspective. US GAAP gave guidance to recognise the gain or loss in equity being in common control transaction.

Under Ind AS regime (especially from seller's perspective), no specific guidance available to recognise the gain or loss on investment in equity when the transaction is under common control except as given in Ind AS 103 (from buyer's perspective).

Accounting in Ind AS 27 does not give any differentiation between whether sale of investment is under common control or otherwise.

However, industry and professionals on a larger scale used to interpret the transaction in a way that transaction being common control, no gain or loss shall be recognised which is aligned with US GAAP but not with Ind AS.

(ii) Will the answer in (i) above will be different in case consideration is paid to the shareholders of A Ltd. and not A Ltd.

Issue 9:

The query is related to presentation of related party in the financial statements of the Company. The reporting entity is a joint venture. In Ind AS 24 in various clauses standard is silent on reporting by Joint venture entity. There is difference on the point of control between holding and subsidiary relationship at one side and joint venture at the other side. We need more clarity on issue related to joint venture.

The Detailed query related to Ind AS 24 is **enclosed at pages 18 to 20 (Annexure C).**

Issue 10:

Company X has a wholly owned subsidiary Company Y. Both, company X and Y, follow Ind AS. During the year 2019-20, Company X has sold one of its business (Business X1) to Company Y against consideration received in cash. The book value of net assets of the Business X1 on date of sale is INR 10,000,000. Consideration received in cash amounts to INR 80,000,000 which represents the fair value of the business transferred on the date of such transfer. Company X and Company Y are under common control. As a result, transfer of business has not resulted in a change at consolidated group level. How should Company X account for the sale of business in its separate financial statements for FY 2019-20?

ANNEXURE A

02nd December, 2019

The Chairman,
The ITFG
The Institute of Chartered Accountants of India
ICAI Bhawan, Indraprastha Marg,
New Delhi - 110 002

Sub: Depreciation Method of the Subsidiary and the Parent Company

Dear Sir,

This is to bring to your consideration the concerns experienced by the members of the Power Industry regarding method of ***Estimating depreciation*** adopted for preparing standalone financial statements of the subsidiaries and depreciation method adopted by the parent while ***preparing the consolidated financial statements*** in view of subsidiary adopting the depreciation method considering span of respective agreements etc. whereas Parent Company considers the Economic useful life higher and different in view of having Capacity and flexibility to alternate its economic use. In view of above, while seeking the guidance on whether both the parent and subsidiary have the flexibility to consider alternate economic life and depreciation method accordingly, we submit as under;

a. The Power companies operate through Special Purpose vehicle (SPVs) as subsidiaries to Build, Own and Operate the power plants considering their period specific Power Purchase Agreements (PPAs) and Fuel Supply Agreements (FSAs) or for that matter; lease of captive coal mines for the corresponding PPA period accordingly.

b. The Subsidiary use WDV method largely in view of the following;
   - **Economic useful life** of these projects is considered on the basis of the period of **Power Purchase Agreements** i.e. maximum for the period of 25 years.
   - The Plants having their **Fuel Supply Agreements (FSA)** or **Captive Coal mines lease** allocation for the span only covering the period of PPA.
   - The **Coal Quality of mines** in view of their lower Calorific value would have higher abrasion as compared to imported or other higher calorific coal which subsidiary will not be able to choose in view of allotted mines.
   - Subsidiary Boards have adopted WDV method not only in view of above but also considering the **matching concept** as well as assessment of the sector, more so its lack of relative resources or flexibility to deal with concerns of the sector.

c. The Parent Companies while consolidating the Financials of the subsidiary(ies) adopted the Straight Line Method (SLM) in view of the following;
   - The **Boards** of the parent company have **approved** and adopted the SLM method.

- The Estimated **economic benefit life of an entity** is considered around 40 years, **beyond the period specific arrangements** of PPA etc. which are normally for the maximum period of 25 years.

- In confirmation to the above, we refer an article published in The Economic Times dated March 17, 2017 as **Old thermal power plants offer new business opportunity** which mentioned that about half of the country's thermal power plants - which collectively account for almost 30% of total installed capacity are over 25 years old and a large number of them are fast approaching to 40 years. In fact, **nearly 188 thermal power plants out of a total of 396 have been more than 25 years old**.

- The Power sector shall not necessarily continue with current arrangements of supply of power only through long-term PPAs but **options such as merchant power plants selling power through short-term traded power markets (i.e. through power exchanges or bilateral contracts) would certainly emerge as significant alternate business models** in the sector.

- The opportunities beyond the PPA term, which is currently bound by the respective applicable regulations, shall provide significant efficiencies in **operating all the plants together** rather than operating them as different entities as at present and the customer base of procurers would evolve to larger section instead of limited current set of procurers.

- The **consolidated sourcing** of Coal & Spares, Strong O & M manpower resources & processes, Power sale opportunities in view of capacity of meeting the base load and/or peak load etc **shall give advantage to the parent**.

- In a scenario where the parent is a listed Company, considering onus of compliance to Ind AS 1, on presentation of FS asserts that users must be able to compare the Financials of an enterprise through the time in order to identify trends in its financial position, performance and cash flows. The essential features of consistency and comparability would be lost if depreciation method is reckoned differently. **SLM** was also considered the best suitable not only to meet the standards but also **remain comparable fit to the readers of the peer Power companies** such as NTPC, TATA Power, JSW Power and Adani Power showed, that all followed the SLM method in consolidation of IND AS Financial Statements.

d. The **method** was adopted during GAAP and same **has been continued** considering IND AS 101 while first-time **implementing IND AS** in 2017 and continued thereafter accordingly.

e. As per IND AS 101 - First time adoption of Ind AS, para 14; "Estimates – An entity's **estimates** in accordance with the Ind AS at the date of transition to the IND AS **shall be consistent** with the estimates for the same date in accordance with the previous GAAP unless there is objective evidence that those estimates were in error".

Accordingly, the subsidiary continues with the WDV method and the Parent Company continues with the SLM while consolidating the Financial Statements of Subsidiary even after adopting the Ind AS in 2016-17.

f. Ind AS 110 requires uniformity of accounting policies, however depreciation method is an accounting estimate and not accounting policy as per Ind AS 8

g. Para 60 and 61 of Ind AS 16 states that the method of depreciation must be selected that most closely reflect the expected pattern of consumption of the future economic benefit embodied in the assets. Considering that **parent and subsidiary has different expected pattern of economic benefit**, they have selected depreciation method accordingly.

The afore-mentioned submission is more specifically illustrated through an example below.
Issue - PQR Ltd. is the subsidiary of MNC Ltd, operating power plant and captive coal mines and prepared its standalone financial statements in accordance with Ind AS by adopting the written-down value method (WDV) for depreciating its property, plant and equipment. PQR Ltd has estimated useful life of PPE considering the life span of power purchase agreements and captive coal mine lease. The parent company i.e. MNC Ltd. while preparing consolidated financial statements has estimated useful life considering the future economic benefits beyond the power purchasing agreement and coal mine lease and the fact that life of power plant runs till 40 years and has used Straight-line method (SLM) considering the consumption pattern.

Considering the facts that: (a) both entities anticipate different Economic useful Life and Pattern of Consumption from the power plant; and (b) depreciation being an accounting estimate and not an accounting policy that needs to be aligned in the consolidated financial statements; estimates of useful life and depreciation method have been carried forward by PQR Ltd. (WDV) and MNC Ltd. (SLM) on transition to Ind AS.

Question:
Whether estimate of useful life and method for depreciating the property, plant and equipment can be different in the financial statements of subsidiary and parent entity? Whether economic life and manner of deriving benefit can be different or has to be same in parent and subsidiary?

We request that the above issues may be taken for consideration in the next ITFG meeting.

ANNEXURE B

Background:

1. A Limited has acquired shares of B Ltd as below:

Date	Mode	No of shares (in crore)	% stake
30.4.2019	From an existing investor (through a negotiated deal executed as block deal thru window provided by stock exchange for this purpose)	3.28	19.92
30.4.2019 to 10.6.2019	On-market purchases on stock exchange	1.47	8.93
	Sub-total (1)	**4.75**	**28.86**
2.7.2019	Open offer	5.13	31.21
	Sub-total (2)	**9.88**	**60.06**
3.7.2019	On-market purchases	0.09	0.53
	Grand total	**9.97**	**60.59**

2. The open offer for 31.21% closed on 28.6.2019 and it was oversubscribed by 1.19 times. Out of which, 21.1% shares were tendered by 25.6.2019. The date wise bids and shares allotted are as follows:

Bid Date	Daily shares bid	% to share capital	Cumulative % to share capital	Proportionate Shares Alloted	% to total share capital	Cum %	Cumulative shareholding % after considering 28.86% on 10th June (if proportionate to be considered)	Cumulative shareholding % after considering 28.86% on 10th June (if proportionate NOT to be considered)
A	B	C=B/Share Capital	D= ^C	E=B/^B* 5,13,25,371	F=E/Share capital	G=^F	H	I
17-06-2019	5,720	0.00%	0.00%	4,798.00	0.00%	0.00%	28.86%	28.86%
18-06-2019	19,49,347	1.19%	1.19%	16,35,168.00	0.99%	1.00%	29.85%	30.04%
19-06-2019	26,69,885	1.62%	2.81%	22,39,576.00	1.36%	2.36%	31.21%	31.67%
20-06-2019	58,045	0.04%	2.85%	48,690.00	0.03%	2.39%	31.24%	31.70%
21-06-2019	6,91,143	0.42%	3.27%	5,79,751.00	0.35%	2.74%	31.60%	32.12%
24-06-2019	2,25,38,037	13.70%	16.97%	1,89,05,555.00	11.50%	14.24%	43.09%	45.83%
25-06-2019	88,32,090	5.37%	22.34%	74,08,612.00	4.50%	18.74%	47.60%	51.20%
26-06-2019	1,50,53,313	9.15%	31.50%	1,26,27,153.00	7.68%	26.42%	55.28%	60.35%
27-06-2019	52,93,680	3.22%	34.72%	44,40,491.00	2.70%	29.12%	57.98%	63.57%
28-06-2019	40,95,683	2.49%	37.21%	34,35,577.00	2.09%	31.21%	60.06%	66.06%
Open Offer Total	**6,11,86,943**	**37.21%**		**5,13,25,371**	**31.21%**			

3. A Ltd completed the settlement process (of shares tendered) on 2.7.2019 by transferring the money from escrow account to the special escrow account of the broker.

Queries

1. What is the date of acquisition of control of B Ltd. by A Ltd. under Ind AS 103?

2. Whether all the shares acquired under the open offer should be treated as a single lot leading to acquisition of controlling stake

   or

   Whether the shares acquired under the open offer should be construed as previously held equity interest till the acquisition of controlling stake in B Ltd viz. 50% and shares after obtaining the controlling stake of [50% +1 share] should be treated as transactions with non-controlling interests?

Analysis for Query 1:

View 1:

(i) A Ltd. held 28.86% shares before the open offer. The acceptances (by the selling shareholders) for further 21.14% shares were acquired on 25.6.2019. Since, the open offer was unconditional (not subject to minimum acceptances), A Ltd can be deemed to have acquired further 21.14% shares on 25.6.2019 and therefore deemed to have acquired the control [acquired 50% shares (28.86% + 21.14%)] on that day.

(ii) A view published in GAAP literature is given below:

IFRS 3 does not include any further guidance for the determination of the acquisition date. The following examples may be useful guide in some circumstances:

Public offer of shares

When a public offer of shares is made, the date that control passes is the date when the offer becomes unconditional and a controlling interest in the acquiree has therefore been achieved. This is usually that date that the number of acceptances passes a predetermined threshold and that threshold is sufficient to provide control (i.e., usually more than 50%). In the absence of such a threshold, the acquisition date may be the date the offer is declared unconditional. In making this assessment, other factors will also need to be considered, including when offers are declared unconditional before a controlling shareholding is achieved. In these circumstances, the acquisition date may occur when the level of shareholding has exceeded a particular level and the acquirer is able to effect change in the board of directors of the acquiree.

(iii) Similar view is published in another GAAP literature as follows:

In the case of acquisition of listed entities, the acquirer also needs to consider the requirements of takeover code, including requirement for open offer to the public shareholder. In such cases, the acquisition date is the date when the offer becomes unconditional and a controlling interest in the acquiree has been achieved. This is usually the date that the number of acceptances passes a predetermined threshold and that threshold is sufficient to provide control. In the absence of such a threshold, the acquisition date may be the date the offer is declared unconditional.

View 2:

A Ltd has acquired 31.21% shares (through open offer) only on 2.7.2019 after settlement of shares tendered (payments to selling shareholders) and getting the shares in its demat account. Before that day, A Ltd. does not have any voting rights on these shares. **The consideration for shares has been legally transferred to the sellers on July 2, 2019 and therefore the same should be considered as the date of acquisition** (Ind AS 103, para 8). The shareholding pattern filed by B Ltd. with stock exchange showing the position as on June 30, 2019 also shows A Ltd.'s shareholding at 28.86%.

Thus, A Ltd. holds only 28.86% stake in B Ltd. with no board position as on 30.6.2019. It does not have power (or ability) to direct the *relevant activities* and therefore, does not have control (Ind AS 110, para 7) as on 30.6.2019. The querist relies on following arguments in support of view 2:

(a) The acquirer is required to consider all pertinent facts and circumstances in identifying the acquisition date as per para 9 of Ind AS 103. The technical literature published by consulting firms in the form of GAAP guidance given on the subject recognises the date of acquisition as dependent on the local laws and take over regulations. A view published in one of such GAAP guidance states as follows:

> *Whether or not the acquirer has the power to control the acquire on a particular date will depend on the local laws and regulations in respect of public offers. If the acquirer does not have the power to control the acquiree's operations until the public offer has closed and the acquirer is not able to make decisions and impose its will on the acquiree's operations, then the acquisition date could not be earlier than the date of closure of the open offer.*

Even the GAAP guidance under view 1 are subject to local laws and takeover code.

(b) In this regard, para 18 of SEBI (substantial acquisition of shares and takeovers) regulations, 2011 provides as follows:

> The acquirer shall, within ten working days from the last date of the tendering period, complete all requirements under these regulations and other applicable law relating to the open offer including payment of consideration to the shareholders who have accepted the open offer.

(c) Para 22 (1) of the SEBI (SAST) Regulations, 2011 provides as follows:

> The acquirer shall not complete the acquisition of shares or voting rights in, or control over, the target company, whether by way of subscription to shares or a purchase of shares attracting the obligation to make an open offer for acquiring shares, until the <u>expiry of the offer period.</u>

(d) Para 2(p) of the SEBI (SAST) Regulations, 2011 defines offer period as follows:

> Offer period means the period between the date of entering into an agreement, formal or informal, to acquire shares, voting rights in, or control over a target company requiring a public announcement, or the date of the public announcement, as the case may be, <u>and the date on which the payment of consideration to shareholders</u> who have accepted the open offer is made, or the date on which open offer is withdrawn, as the case may be;

(e) Para 24 of the SEBI (SAST) Regulations, 2011 provides as follows:

> During the offer period, no person representing the acquirer or any person acting in concert with him shall be appointed as director on the board of directors of the target company, whether as an additional director or in a casual vacancy:

In view of the above, considering the fact that the offer period extends up to the date of payment of consideration, and acquisition of control and appointment of persons on the board of directors of the target company is prohibited under the SEBI (SAST) regulations, 2011 *during the offer period*, the date of acquisition of control should be considered as the date on upon completion of the offer period as defined in SEBI (SAST) regulations.

Accordingly, it is submitted that since the payment of consideration was made on July 2, 2019, the same should be treated as the date of acquisition of control by virtue of shareholding.

Technical References for Query 1:

Ind AS 110, Para 7

Thus, an investor controls an investee if and only if the investor has all the following:
(a) power over the investee (see paragraphs 10–14);
(b) exposure, or rights, to variable returns from its involvement with the investee (see paragraphs 15 and 16); and
(c) the ability to use its power over the investee to affect the amount of the investor's returns (see paragraphs 17 and 18).

Ind AS 103, Para 9

The date on which the acquirer obtains control of the acquiree is generally the date on which the acquirer legally transfers the consideration, acquires the assets and assumes the liabilities of the acquiree—the closing date. However, the acquirer might obtain control on a date that is either earlier or later than the closing date. For example, the acquisition date precedes the closing date if a written agreement provides that the acquirer obtains control of the acquiree on a date before the closing date. An acquirer shall consider all pertinent facts and circumstances in identifying the acquisition date.

Analysis for Query 2:

Accounting of stake acquisition post obtaining control:

View 1:

There is a view that since the shares tendered before acquiring controlling stake and after acquiring controlling stake were credited to demat account on the same day viz. July 2, 2019, the entire shares (5.13 crore constituting 31.21% stake in B Ltd.) acquired on July 2, 2019 should be considered as a single lot leading to business combination and should be accounted at cost for the purpose of goodwill computation.

View 2:

As stated above in the fact pattern of acquiring controlling stake in B Ltd., shares exceeding 50% stake in B Ltd. were tendered during the open offer by June 26, 2019 and were acquired by A Ltd on July 2, 2019. The shares representing additional stake post 50%, were tendered during 26.6.2019 to 28.6.2019 and acquired by B Ltd on July 2, 2019. The shares constituting 50% stake should be considered as previously held equity interest and fair valued as on July 2, 2019 being the acquisition date as they did not guarantee controlling stake by themselves.

On similar basis, the share tendered post June 26, 2019 should be considered as shares acquired post obtaining controlling stake and should be considered as transaction with non-controlling interests and accounted within equity as per para 23 r.w. para B96 of Ind AS 110.

The querist relies on following arguments in support of view 2:

(a) The basis of view 2 is that the open offer was unconditional from the beginning and A Ltd. was obliged to buy the shares tendered during the offer period irrespective of whether the controlling stake is achieved or not. In view of the above, the acquisition of shares thru open offer (which comprised multiple tenders from public shareholders aggregating to 6.12 crore shares as against the open offer of 5.13 crore) should be viewed as step acquisition upto 50% and the acquisition thereafter should be treated as transaction with non-controlling shareholders. The following observation is relevant in this context which was noted by IASB and is quoted in BC388 of IFRS 10:

> *Those respondents said that the accounting for previously held equity interests is similar to the accounting for available-for-sale securities. Changes in the value of available-for-sale securities are recognised in other comprehensive income. They view each step in a step acquisition as a transaction in which the acquirer only obtains more shares in the acquiree.*

(b) Since Ind AS 103 is silent about acquisition of control thru open offer route, the requirements of control need to be evaluated for each separate transaction which is executed on stock exchange under open offer mechanism in the present case and results in acquisition of shares of B Ltd. by A Ltd.

(c) It is submitted that open offer is only a mechanism mandated by SEBI takeover regulations and is not an arrangement with the sellers. As such, apart from the date of acquisition of control viz. July 2, 2019, one needs to also consider the quantum of shares acquired on the acquisition date and the acquisition of controlling stake should act as a "cut off" for applying the requirements of para 41 of Ind AS 103 and para 23 r.w. para B96 of Ind AS 110.

(d) Each transaction of tender of share during open offer is independent of another and ***does not guarantee the controlling stake*** before it is actually acquired. In essence, the share acquired after reaching 50% gives the controlling stake assuming that the balance shareholders would act in concert. In fact, the threshold of 50% can be lower at an appropriate percentage arrived at after considering voting pattern at previous shareholders' meeting as envisaged in para B42 (d) of Ind AS 110 and any acquisition of additional share post the appropriate percentage so determined would lead to obtaining the controlling stake.

(e) Once the controlling stake is acquired, any additional stake should be construed as transaction with non-controlling interest and accounted as per para 23 r.w. para B 96 of Ind AS 110. The reason is that the additional stake is an independent outcome not relating to the acquisition of controlling stake *per se*. As mentioned in the fact pattern above, it was possible for A Ltd to structure the open market purchase after the open offer to obtain the controlling stake. Secondly, the additional stake though acquired on July 2, 2019 was contingent on shareholders tendering the shares to that extent and was not binding on the sellers till they actually tendered the shares. Hence, the shares acquired under open offer cannot be treated as a single lot leading to acquiring a controlling stake.

(f) Para 40 of Ind AS 103 refers to an example of step-acquisition by Entity A in Entity B by acquiring additional 40% stake in Entity B on the acquisition date. It is submitted that the said example does not clarify from whom the stake is acquired and whether it was a binding agreement between Entity A and the sellers for acquisition of 40% stake. In the present case, the open offer did not guarantee acquisition of a particular stake and was entirely dependent on the actual shares tendered by various shareholders with the number of shares actually tendered reaching up to 6.12 crore as against the open offer for 5.13 crore shares.

(g) Para B97 of Ind AS 110 contains anti abuse provisions where multiple transactions should be construed as a single transaction under certain circumstances in the context of loss of control by a parent in a subsidiary.

One of the essential requirements of clubbing multiple transactions as single transaction is that the occurrence of one arrangement is dependent on the occurrence of at least one other arrangement. Applying similar principles to the acquisition of control over a subsidiary thru multiple transactions executed under open offer, the transactions under the open offer mechanism cannot be treated as a single transaction of acquiring control as they are independent of each other and no transaction executed under open offer is dependent on the occurrence of any other transaction executed under the same open offer in any sequence whatsoever.

Accordingly, it is submitted that shares acquired by A Ltd upto 50% in B Ltd under open offer should be treated as previously held equity interest and shares acquired under open offer post acquisition of 50% + 1 share should be treated as transactions with non-controlling interests.

Technical References for Query 2:

(Ind AS 103, Para 40)

An acquirer sometimes obtains control of an acquiree in which it held an equity interest immediately before the acquisition date. For example, on 31 December 20X1, Entity A holds a 35 per cent non-controlling equity interest in Entity B. On that date, Entity A purchases an additional 40 per cent interest in Entity B, which gives it control of Entity B. This Ind AS refers to such a transaction as a business combination achieved in stages, sometimes also referred to as a step acquisition.

(Ind AS 103, Para 41)

In a business combination achieved in stages, the acquirer shall remeasure its previously held equity interest in the acquiree at its acquisition-date fair value and recognise the resulting gain or loss, if any, in profit or loss or other comprehensive income, as appropriate.

(Ind AS 110, Para 23)

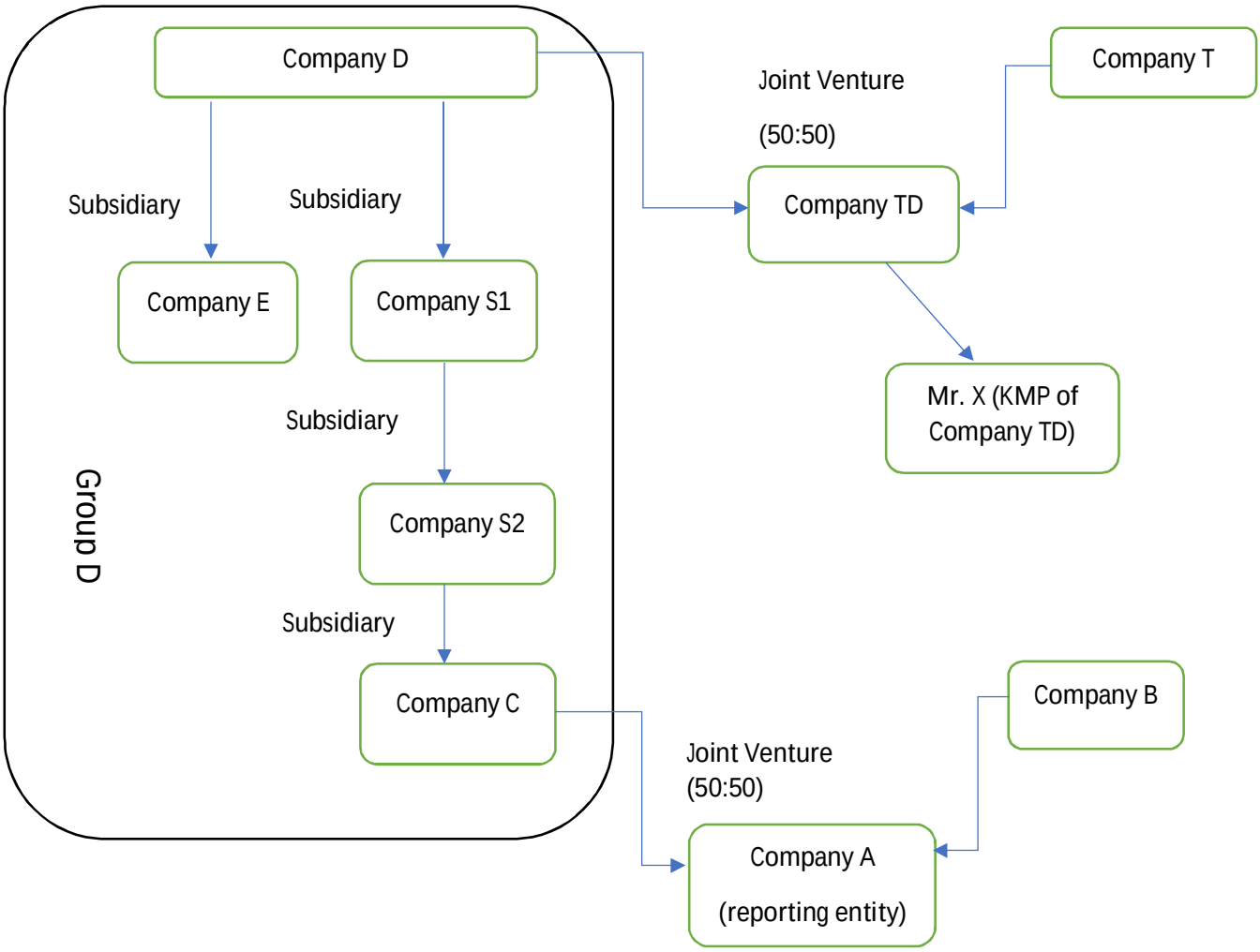
Changes in a parent's ownership interest in a subsidiary that do not result in the parent losing control of the subsidiary are equity transactions (i.e. transactions with owners in their capacity as owners).

(Ind AS 110, Para B96)

When the proportion of the equity held by non-controlling interests changes, an entity shall adjust the carrying amounts of the controlling and non-controlling interests to reflect the changes in their relative interests in the subsidiary. The entity shall recognise directly in equity any difference between the amount by which the non-controlling interests are adjusted and the fair value of the consideration paid or received, and attribute it to the owners of the parent.

ANNEXURE C

Following is the graphical depiction of corporate structure of entities for which clarification is sought:



Issue Number: 1

Company A is a private limited company incorporated in India and is a joint venture (50:50) between an Indian Company B and a foreign Company C. Company A is being managed by Company B through its representatives. The Board of Company A consists equal number of representatives from Company B and Company C each.

Company C is a 100% indirect subsidiary (through Company S1 and Company S2) of a foreign Company D. Company D is a large group of companies and it has many subsidiaries all over the world. Company E is one of the subsidiaries of the Company D, incorporated and having its operations in India. Company A is not a member of group of Company D. Company A sells various products to Company E in India.

As per Ind AS 24 – Related Party Disclosures ('Ind AS 24') a reporting entity needs to disclose related party entities and its transaction details with the related parties in its Ind AS financial statements. We would like to invite your attention on Paragraph 9 (b)(ii) of Ind AS 24 in this case.

According to Company A's management assessment of Paragraph 9(b)(ii) of Ind AS 24, Company A does not disclose Company E as a related party company in its standalone Ind AS financial statements because Company E is neither t an associate nor a joint venture of the Company A (or an associate or joint venture of a member of a group (Group D) of which the Company A is not a member).

In view of the above following questions are referred for your clarification:

1) In view of Paragraph 9(b)(ii) of Ind AS 24, does Company E become a related party for Company A (reporting entity)?
2) Does Company A need to disclose transaction details of Company E in its standalone Ind AS financial statements?

Issue Number: 2

Company TD a private limited company incorporated in India, is a joint venture between an Indian Company T and a foreign Company D. Mr X is key managerial personnel ('KMP') in Company TD. Close family members of Mr X hold 41% equity shares in Company B. Company B holds 50% equity shares in Company A. Company A sells various products to Company TD. Mr X and close family members of Mr X are neither members of the Board of Directors nor KMP of Company A. Mr X and close family members of Mr X do not have power to participate in the financial and operating decisions/policies of Company A.

According to Company A's management assessment of Paragraph of 9(a) and 9(b)(vii) of Ind AS 24, Mr. X is not a related party for Company A as neither Mr. X nor close family members of Mr. X have either significant influence or control over Company A as well as neither Mr. X nor close family members of Mr. X are appointed as KMP in Company A.

In view of the above following questions are referred for your clarification:

1) Does Mr. X have a significant influence over Company A (reporting entity)?
2) In view of Paragraph 9(a) and 9(b)(vii) of Ind AS 24, does Mr. X become a related party for Company A (reporting entity)?

Issue Number: 3

Company TD is a private limited company incorporated in India is a joint venture (50:50) between an Indian Company T and Foreign Company D . Company A is a private limited company incorporated in India and is a joint venture (50:50) between an Indian Company B and a foreign Company C.

According to Company A's management assessment of Paragraph 9(b)(iii) of Ind AS 24, Company TD is not a related party as Company TD and Company A are not joint ventures of the same third party and therefore Company A does not disclose transaction details of Company TD in its standalone Ind AS financial statements.

In view of the above, following questions are referred for your clarification:

1) In view of Paragraph 9(b)(iii) of Ind AS 24, does Company TD become a related party for Company A (reporting entity)?

2) Does Company A need to disclose transaction details of Company TD in its standalone Ind AS financial statements?