

Mr Robert P. Garnett
Chairman of the
International Financial Reporting Interpretations Committee
30 Cannon Street

London EC4M 6XH
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Dear Mr Garnett

Re.: IFRIC Draft Interpretation D23: Distributions of Non-cash Assets to Owners

We appreciate the opportunity to comment on the above mentioned Draft Interpretation issued by the IFRIC in January 2008. We would like to express serious concerns with the Draft Interpretation because we have conceptual objections to certain parts of the interpretation. Therefore, rather than responding to the questions posed, we explain our general concerns as follows:

According to IFRIC D23.9, an entity shall measure a liability to distribute non-cash assets as dividends to its owners in accordance with IAS 37. When measuring the dividend payable an entity shall consider the fair value of the assets to be distributed (IFRIC D23.10). We would like to point out that measuring the dividend payable at the fair value of the assets to be distributed but measuring the assets themselves at their carrying amount (which normally is less than their fair value) will lead to an accounting mismatch.

The IFRIC's project on emission rights in 2003 addressed the accounting for an issue that is, in essence, comparable to the issue in question. In our comment letter on Draft Interpretation D1 Emission Rights dated 14 July 2003 we opposed the IFRIC's intention at that time and proposed a liability be measured at the carrying amount of the emission rights when the reporting entity already owns the allowances necessary to settle its obligation. Accounting for emission rights and the related liabilities is to some extent similar to the accounting for distributions of non-cash assets.

GESCHÄFTSFÜHRENDER VORSTAND:
Prof. Dr. Klaus-Peter Naumann,
WP StB, Sprecher des Vorstands;
Dr. Klaus-Peter Feld, WP StB CPA;
Manfred Hamann, RA

Neither IAS 37 nor the proposed amendments to IAS 37 and IAS 19 from 2005 contain a provision on how to measure non-financial liabilities when the reporting entity expects to fulfil the obligation itself in the future using its own resources. We suggested providing for such a stipulation within IASB's ongoing project "Liabilities" in our letter dated 22 May 2007. Based on the current standards there is diversity in financial reporting practice regarding the measurement of such non-financial liabilities. Furthermore, we note that no common view has yet been established in accounting literature. In our view, it is premature to deal with the question of how to measure such non-financial liabilities by way of interpretation before the project to amend IAS 37 has been completed.

Accordingly, we suggest first waiting for the final results of the current projects concerning the amendment of IAS 37 and the accounting for emission rights, respectively. Issuing an interpretation earlier carries the risk of an unintended conferment of the prescribed accounting for non-cash assets distributions on the accounting for similar issues that are not (yet) explicitly addressed within the IFRS.

In question 2 of the invitation to comment, the IFRIC asks whether it is appropriate to recognise any difference between the carrying amount of the assets distributed and the carrying amount of the dividend payable in profit or loss when the dividend payable is settled – as proposed in IFRIC D23.12 – or whether that difference should be recognised directly in equity. According to paragraph BC44, some IFRIC members supported the latter view. The conceptual discussion reflected in paragraphs BC28 et seqq. indicates that answering the question as to which treatment is more appropriate requires an in-depth and comprehensive discussion of the issue beforehand.

Finally, we have some major conceptual concerns with regard to the proposal that all dividends payable within the scope of IFRIC D23, regardless of the types of assets to be distributed, should be addressed by a single standard, i.e., IAS 37. Assuming that a dividend payable may be interpreted as a contractual obligation, a dividend payable has to be classified as a financial liability in terms of IAS 32.11 if the obligation has to be settled by delivering non-cash financial assets – just as is the case with ordinary cash distributions. These liabilities must be accounted for according to IAS 39. In order to allow for a consistent measurement of all types of dividends payable, this compulsory consequence must *not* be negated by way of *interpretation*, rather it is necessary to amend the *standards* themselves.

The same is true when an entity gives its owners a choice of receiving either a non-cash asset or a cash-alternative as addressed in paragraph 10 (assuming

that each owner has the possibility to exercise this option individually). This right to choose may be disaggregated into two components of the obligation of the reporting entity. Firstly, there is an obligation for a cash distribution. This obligation falls into the scope of IAS 39. Secondly, the entity writes an option on the alternative distribution of non-cash assets (short call). The exercise price of this option is the amount that an owner would receive had he or she chosen the cash-alternative, since he or she foregoes this payment by exercising the option. Given that this option is not a financial instrument and there is no net cash settlement, the resulting obligation of the reporting entity from writing the option does not fall within the scope of IAS 39, but within the scope of IAS 37. The treatment of such constellations cannot be prescribed by an interpretation.

Should the IFRIC intend to proceed with the Draft Interpretation despite the fundamental and conceptual criticism expressed above, we believe that it would be more appropriate to explain the necessary journal entry at the date of declaring the dividend in the interpretation itself, rather than using an illustrative example alone to convey this (IE4).

We would be pleased to answer any questions that you may have or discuss any aspect of this letter.

Yours sincerely

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Accounting and Auditing

Uwe Fieseler
Director
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