

March XXX, 2004

Kevin Stevenson
Chairman IFRIC
30 Cannon Street
London EC4M 6XH
UK

DRAFT FOR COMMENTS by 8 March 2004

Dear Kevin,

Re: IFRIC Draft Interpretation D3 *Determining whether an Arrangement contains a Lease*

On behalf of the European Financial Reporting Advisory Group (EFRAG) I am writing to comment on the draft of the IFRIC Interpretation D3 *Determining whether an Arrangement contains a Lease* ("D3"). This letter is submitted in EFRAG's capacity of contributing to IASB's and IFRIC's due process and does not necessarily indicate the conclusions that would be reached in its capacity of advising the European Commission on endorsement of the definitive IFRIC on the issue.

Objective

We support the objective of D3 to apply IAS 17 *Leases* to arrangements which convey a right to use an item for a specified period of time in return for payments even if the contract does not take the legal form of a lease. D3 provides guidance in particular on how to determine whether an arrangement is, or contains, a lease and when assessment or reassessment should be made.

We further agree with D3 that the core of such arrangements is the right to use rather than the underlying asset itself. We expect that a lot of arrangements such as outsourcing, take-or-pay contracts or service concessions, which are currently off balance sheet, will fall within IAS 17 by the application of D3.

Components of larger items

We see this draft interpretation as only an interim step towards a full revision of IAS 17. We recognise that given the limited scope IFRIC does not intend to deal with further aspects such as a full components approach and its consequences. Reading the last sentence of paragraph 3 together with BC4 we agree that in some cases a right to use a component of a larger item gives rise to an item that should be treated as a lease consistent with D3, e.g. the right to use half of the capacity of a pipeline in a throughput arrangement. However, IFRIC clarifies in BC4 that questions of identifying components of larger items raise issues which are beyond the scope of D3. Although we acknowledge that it is difficult to draw the line in an interim measure such as this draft interpretation, we should like to see some guidance with regard to rights to use components of larger items.

Separation of payments

We agree with paragraph 8 of D3 that IAS 17 has to be applied for the lease element only and that other elements must be accounted for in accordance with other Standards. As a consequence, we agree with the separation of payments for the lease from other payments as required in paragraph 9 if the payments are of material amounts. We believe that paragraph 10 deals appropriately with those cases where it is not possible to separate the payments reliably.

We note with approval that IFRIC intends to consider addressing disclosure of executory contracts more generally in a separate project.

If you would like further clarification of the points raised in this letter, Paul Rutteman or myself would be happy to discuss these further with you.

Yours sincerely

Johan van Helleman
EFRAG, Chairman