

Sir David Tweedie
Chairman of the
International Accounting Standards Board
30 Cannon Street

London EC4M 6XH
United Kingdom

Düsseldorf, September 28, 2004
511/520

Dear Sir David

Re: Exposure Draft of Proposed Amendments to IAS 39 Financial Instruments: Recognition and Measurement – Transitional and Initial Recognition of Financial Assets and Financial Liabilities

We appreciate the opportunity to comment on the Exposure Draft mentioned above and would like to submit our comments as follows:

Question 1

Do you agree with the proposals in this Exposure Draft? If not, why not? What changes do you propose and why?

According to paragraph 76 of the Application Guidance the best evidence of the fair value of a financial instrument at initial recognition is the transaction price, unless the fair value can be evidenced by comparison with other observable current market transactions, or is based on a valuation technique whose variables include only data from observable markets. Pursuant to BC1 'day 1' gain or loss can be recognised only if evidenced in this way. In principle we agree with the Exposure Draft. However, in our view 'day 1' gain or loss is an important issue that should be dealt with not only in the Application Guidance but in the Standard itself.

Question 2

Do the proposals contained in this Exposure Draft appropriately address the concerns set out in paragraph 5 of the Background on this Exposure Draft? If not, why not and how would you address those concerns?

Paragraph 107A as well as paragraph 5 of the Background state that prospective application of the 'day 1' gain or loss recognition requirements in paragraph AG76 is permitted to transactions entered into after October 25, 2002. According to BC11 this would enable entities to eliminate any difference with US GAAP. Taking the point of view of most first-time adopters in Europe, October 25, 2002 is an arbitrary date. Therefore, in our opinion for reasons of practicality this date should be changed to January 1, 2004 in paragraph 107A as well as in paragraph 25E of IFRS 1. Furthermore, an earlier date of the entity's choosing should be permitted, provided that the information needed to apply the 'day 1' gain or loss recognition requirements was obtained at the time of initial recognition of the transaction. In our view, the enhanced relevance of the financial information due to the earlier application justifies the impairment of comparability because different entities will choose different dates from which to apply the 'day 1' gain or loss recognition requirements as stated in BC9.

Question 3

Do you have any other comments on the proposals?

In our view, AG76A and BC16 do not provide sufficient guidance on how a gain or loss not recognised on 'day 1' should be recognised subsequently. For instance, an entity would acquire shares at a transaction price of 100 cu whereas an adequate valuation model predominantly based on data from observable markets would have lead to a fair value of 98 cu. In such circumstances the initial recognition of the shares is amounting to 100 cu. Assumed the valuation model leads to a fair value of the shares of 96 cu on 'day 2' whereas no transaction price can be observed. According to AG76A a gain or loss shall be recognised only to the extent that it arises from a change in a factor (including time) that market participants would consider in setting a price. In the example the change in fair value due to variations in market parameters is only -2 cu if the valuation model is the basis of measurement. In our view, pursuant to the Draft Interpretation it is unclear whether this would lead to a fair value of the shares of 98 cu or 96 cu on 'day 2'. Therefore, it should be clarified that 'day 1' gain or loss should be allowed to be recognised on 'day 2' because this would reflect the best estimate of fair value available on 'day 2', i.e. in the example stated above 96 cu should be recognised on 'day 2'. Furthermore, particularly the meaning of "including time" in AG76A should be clarified.

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

Yours sincerely

Klaus-Peter Naumann
Chief Executive Officer

Norbert Breker
Technical Director
Accounting and Auditing