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US Reporting Newsletter for Non-US Based Companies

Global Offerings Services

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New York – Joel Osnoss
+1 (212) 436 3352

Hong Kong – Jay Harrison
+852 2852 6337

London - Donna Ward
+44 (20) 7007 0902

Madrid – Manuel Arranz
+34 (91) 514 5072

Mexico City – James Primus
+52 (55) 5080 6781

Paris – Don Andrade
+33 (1) 4088 2508

Sao Paulo – Ed Ruiz
+55 (11) 5185 2500

Tokyo – Paul Thurston
+81 (3) 6213 3159

Toronto - Rod Barr
+1 (416) 874 3630

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GAAP Matters

FASB Statement No. 154, *Accounting Changes and Error Corrections* issued

The FASB has issued FASB Statement No. 154, *Accounting Changes and Error Corrections.* This new standard replaces APB Opinion No. 20, *Accounting Changes,* and FASB Statement No. 3, *Reporting Accounting Changes in Interim Financial Statements,* and represents another step in the FASB's goal to converge its standards with those issued by the IASB. Among other changes, Statement 154 requires that a voluntary change in accounting principle be applied retrospectively with all prior period financial statements presented under the new accounting principle, unless it is impracticable to do so. Statement 154 also provides that (1) a change in method of depreciating or amortizing a long-lived nonfinancial asset be accounted for prospectively as a change in estimate (such changes were previously effected as a change in accounting principle), and (2) corrections of errors in previously issued financial statements should be termed "restatements." The new standard is effective for accounting changes and corrections of errors made in fiscal years beginning after December 15, 2005. Early adoption of this standard is permitted for accounting changes and corrections of errors made in fiscal years beginning after June 1, 2005.

Click here for additional information related to Statement 154 within our Accounting Roundup publication.

Click here for full text of Statement 154.

Highlights of the June 15-16 EITF meeting

The EITF reached final consensuses on the following issues:

Issue No. 04-5, "Determining Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar Entity When the Limited Partners Have Certain Rights"

IMPACT: All companies that serve as a general partner in limited partnerships, especially real estate and investment limited partnerships, and managing members of limited liability companies governed like partnerships. The consensus does not apply if the partnership or similar entity is a variable interest entity (VIE) accounted for under FASB Interpretation No. 46 (revised December 2003), *Consolidation of Variable Interest Entities.*

A general partner (GP) (or a group of GPs) of a limited partnership **is presumed to control the limited partnership**, unless either:

1. The limited partners (LPs) have the substantive ability to dissolve (liquidate) the limited partnership or otherwise remove the GP (kick-out rights) without cause, or
2. The LPs have "substantive participating rights."

The Task Force concluded that the presumption of control by the GP(s) is appropriate because the consolidation-based-on-control model under GAAP typically requires a company, which controls the resources of another entity, to consolidate that entity — even if the parent's economic interest is small. Thus, the nature of a limited partnership is such that the GP appears to control it, absent circumstances that indicate otherwise.

The final consensus was ratified by the FASB at its June 29 meeting. Issue 04-5 is effective immediately for all **new** limited partnership agreements and for pre-existing limited partnership agreements that are **modified**.

For pre-existing limited-partnership agreements that are not modified, Issue 04-5 is effective in fiscal years beginning after December 15, 2005. Preparers can choose one of the following two methods for transition:

- Method A — Record the cumulative effect, if any, at the beginning of the period in which Issue 04-5 is first applied. The financial statements for prior years should be presented as previously reported, and the cumulative effect, if any, should be **included in opening retained earnings** of the period of the change and **not in the net income** of the period of change.
- Method B — Restate prior period financial statements.

Issue No. 05-2, "The Meaning of 'Conventional Convertible Debt Instrument' in EITF Issue No. 00-19, 'Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock'"

IMPACT: Entities issuing non-"vanilla" convertible debt or convertible preferred stock with a mandatory redemption date.

Issue 00-19 is used (among other purposes) to evaluate whether an issuer is required to bifurcate a conversion option, under FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities*, that is embedded in convertible debt. Bifurcation of a conversion option is not required for the issuer if the conversion option would meet the requirements to be classified as equity under Issue 00-19. Paragraph 4 of Issue 00-19 provides an exception to applying some of its specific requirements for equity classification if the "contract is a **conventional convertible debt instrument** in which the holder may only realize the value of the conversion option by exercising the option and receiving the entire proceeds in a fixed number of shares or the equivalent amount of cash (at the discretion of the issuer)." **[Emphasis added]**

The Task Force reached a consensus that the exception to the requirements of paragraphs 12–32 of Issue 00-19 for **conventional convertible debt instruments** should be retained and further clarified as follows:

> Instruments that provide the holder with an option to convert into a fixed number of shares, and the ability to exercise that option is based on the passage of time or a contingent event, should be considered "conventional."

The Task Force concluded that a contingency is not relevant in determining whether the instrument is "conventional." Rather, the ultimate form of settlement should be considered. That is, if upon resolution of the contingency, the instrument is convertible into a fixed number of shares, the instrument is no different than a non-contingent convertible instrument in respect to form of settlement.

The Task Force also reached a consensus that convertible preferred stock with a mandatory redemption date may qualify for the exception in paragraph 4 of Issue 00-19 depending on whether the instrument is more akin to debt or equity.

The consensuses of Issue 05-2 are effective prospectively for all new instruments and modifications to existing instruments entered into after June 29, 2005.

Issue No. 05-5, "Accounting for the Altersteilzeit Early Retirement Programs"

IMPACT: U.S. companies with German subsidiaries or non-U.S. companies that provide benefit arrangements for employees under an Altersteilzeit (ATZ) Early Retirement Program or an arrangement with the same terms.

The Altersteilzeit arrangement is an early retirement program in Germany designed, in part, as an incentive

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toward early retirement. Typically, ATZ arrangements offer the following two alternatives to employees:

- Type I — Participants work 50 percent of the time for each year of the entire ATZ period, and receive 50 percent of their normal salary each period.
- Type II — Participants work full-time for half of the ATZ period and do not work for the remaining half of the ATZ period. Salary for each year of the entire ATZ period is 50 percent of the normal salary.

In addition to salary payments, participants also receive termination benefits consisting of a bonus and additional employer contributions to the German government pension scheme on behalf of the ATZ participants. Most employees participating in ATZ arrangements select the Type II arrangement.

The Task Force concluded that the salary payments under a Type I and Type II arrangement should be recognized ratably over the portion of the ATZ period when the employee is providing active services (the “active service period”). The portion of the salary that is deferred under the Type II arrangement would be discounted if payment is expected to be over a period greater than one year.

The Task Force, after reviewing several alternatives, reached a consensus that the termination benefit of a Type II ATZ arrangement should be accounted for as a termination benefit under FASB Statement No. 112, *Employers' Accounting For Postemployment Benefits*. Accruals for the cost of benefits commence at the time an individual employee enrolls in the ATZ arrangement and should be accrued ratably from the date the employee signs the ATZ contract to the end of his active service period.

The German government provides a subsidy (reimbursement) to an employer for the termination benefits paid under an ATZ arrangement for a maximum of six years. In order to receive this subsidy, an employer must meet certain criteria (typically, an employer must hire replacement employees from currently registered unemployed persons or former trainees). The Task Force considered whether the subsidy should be accounted for in the assumptions for determining the costs of the termination benefit. Ultimately, the Task Force reached a consensus that a company should account for the government subsidy when it meets the criteria necessary to receive it. In reaching the consensus, the Task Force concluded that the subsidy is a separate and distinct component from the termination benefit.

Issue 05-5 is effective for the first fiscal year that begins after December 15, 2005. Adoption of this consensus should be reported as a change in accounting estimate as described in paragraph 19 of FASB Statement No. 154, *Accounting Changes and Error Corrections*. Disclosures required by paragraph 22 of Statement 154, should be provided.

Issue No. 05-6, “Determining the Amortization Period for Leasehold Improvements”

IMPACT: Entities acquiring leasehold improvements in a business combination and all other entities that incur significant leasehold improvements whose useful life extend beyond the term of the lease.

Questions have been raised regarding the determination of the amortization period for leasehold improvements that are purchased subsequent to the inception of the lease (that is, leasehold improvements that are not placed in service (or contemplated) at or near the beginning of the initial lease term). A reasonably assured lease term under FASB Statement No. 13, *Accounting for Leases*, includes the fixed non-cancelable term plus all periods covered by bargain renewal options and all other periods where failure to renew will impose a penalty on the lessee in such an amount that will make renewal reasonably assured. The lease-term cannot be extended to periods beyond which a contractual right to lease exists.

At the June meeting, the Task Force reached a consensus that leasehold improvements placed in service significantly after and not contemplated at, or near, the beginning of the lease term, should be amortized over the lesser of the useful life of the assets or a term that includes renewals that are reasonably assured at the date the leasehold improvements are purchased. This consensus applies only to purchases of significant leasehold improvements as a result of single capital investing decisions. The issue does not address reassessment of (1) the amortization period for leasehold improvements that pre-exist the newly purchased leasehold improvements, or (2) reassessment of the lease term for purposes of lease classification and recognition of lease payments.

The EITF Agenda Committee agreed to consider at its next meeting (August) whether a separate issue should be added to the Agenda to address the amortization period for pre-existing leasehold improvements upon a significant addition of leasehold improvements.

The Task Force reached a similar consensus with respect to all leasehold improvements acquired in a business combination. This consensus only addresses the amortization period for leasehold improvements. Lease classification and recognition of lease payments should be accounted for under FASB Interpretation No. 21, *Accounting for Leases in a Business Combination*, and Statement 13.

The consensuses reached are effective for periods beginning after June 29, 2005. The consensuses should be applied prospectively to the amortization period for newly acquired improvements and the unamortized portion of existing improvements that were either (a) purchased subsequent to the inception of the lease (if they qualify) or (b) *acquired in a business combination.*

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Consensus Modification — Issue No. 01-9, "Accounting for Consideration Given by a Vendor to a Customer (Including a Reseller of the Vendor's Products)"

The FASB staff has received questions about the scope of Issue 4 in Issue 01-9 and whether the decision tree appropriately reflects the consensus. The decision tree indicates that consideration that is delivered at the point of sale is within the scope of Issue 01-9 and that consideration that is delivered at other than the point of sale is not within its scope. The Task Force originally concluded that if the consideration is cash and it is receivable by the customer as a result of a single exchange transaction, then Issue 01-9 applies, regardless of when the customer receives the cash (for example, a cash rebate that is mailed to the customer after the sales transaction). In contrast, if a sales incentive is offered in the form of product or services, and the delivery is after the point of sale, Issue 01-9 does not apply. Accordingly, the decision tree has been updated to clarify the Task Force's original consensus.

Additionally, the Task Force agreed to add a footnote to Issue 4 to clarify the interaction between the consensus in Issue 4 and the scope of Issue 01-9. That is, Issue 01-9 does not address the accounting for an offer to a customer, in connection with a current revenue transaction, for free or discounted products or services from the vendor that is redeemable by the customer at a future date without a further exchange transaction with the vendor.

Consensus Modification — Issue No. 04-6, "Accounting for Stripping Costs Incurred During Production in the Mining Industry"

At the March meeting, the Task Force reached a consensus that stripping costs incurred during production are variable production costs that should be included in the costs of the inventory produced. At the June meeting, the Task Force agreed to clarify the term "inventory produced" to indicate that their intention was that inventory produced would only include inventory extracted.

The Task Force reached a consensus to conform the transition guidance of Issue 04-6 to be consistent with FASB Statement No. 154, *Accounting Changes and Error Corrections*, to state that entities should recognize the cumulative effect of initially applying this consensus as a change to opening retained earnings in the period of adoption.

Consensus Modification — Issue No. 04-10, "Determining Whether to Aggregate Operating Segments That Do Not Meet the Quantitative Thresholds"

The Task Force previously decided that the effective date of the consensus in Issue 04-10 should coincide with the effective date of FASB Staff Position (FSP) No. FAS 131-a, *Determining Whether Operating Segments Have 'Similar Economic Characteristics'* Under Paragraph 17 of FASB Statement No. 131, *Disclosures About Segments of an Enterprise and Related Information,*" since the two issues were interrelated. At the May 18, 2005 Board meeting, the Board decided not to issue the proposed FSP FAS 131-a. Since the Board plans no further action on this issue, the Task Force agreed to reconsider the effective date of Issue 04-10.

The Task Force agreed that the consensus in Issue 04-10 should be effective for fiscal years ending after September 15, 2005. Additionally, consistent with the Task Force's previous decision, the corresponding information for earlier periods, including interim periods, should be restated unless it is impractical to do so.

Click here for additional information within EITF Roundup.

Click here for minutes from the June 15-16, 2005 EITF meeting.

FASB Staff Positions

FSP 143-1, Accounting for Electronic Equipment Waste Obligations

On June 8, 2005, the FASB issued a FASB Staff Position (FSP) interpreting FASB Statement No. 143, *Accounting for Asset Retirement Obligations*. Specifically, the FASB issued FSP FAS 143-1, "Accounting for Electronic Equipment Waste Obligations." This standard addresses the accounting for obligations associated with Directive 2002/96/EC, Waste Electrical and Electronic Equipment, which was adopted by the European Union. The FSP provides guidance on how to account for the effects of the Directive but only with respect to historical waste (i.e., waste associated with products placed on the market on or before August 13, 2005). The guidance in the FSP is required to be applied the later of (1) the first reporting period ending after June 8, 2005, or (2) the date of the adoption of the law by the applicable EU-member country.

Click here for the full text of this FSP.

FSP 150-5, Issuer's Accounting under FASB Statement No. 150 for Freestanding Warrants and Other Similar Instruments on Shares That Are Redeemable

On June 29, 2005, the FASB issued FSP No. FAS 150-5. The FSP clarifies that freestanding warrants and other similar instruments on shares that are redeemable (either puttable or mandatorily redeemable) should be accounted for as liabilities under FASB Statement No. 150 regardless of the timing of the redemption feature or price, even though the underlying shares may be classified as equity (or temporary equity under SEC Accounting Series Release No. 268, Redeemable Preferred Stocks). The FSP indicates that these instruments are liabilities (even if the obligation is conditional) because they embody obligations to repurchase the issuer's shares and may require a transfer of assets. Unlike the proposed FSP, options or similar instruments originally issued as employee compensation, which are no longer dependent on employment, are not within the scope of the final FSP. The FASB made this scope change because they are working on a separate FSP under which these instruments would continue to be accounted for under Statement 123(R) (rather than other GAAP such as Statement 150). This FSP is effective for

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the first reporting period beginning after June 30, 2005. If this FSP results in changes to previously reported information, the cumulative effect should be reported according to the transition provisions of Statement 150.

Click here for the full text of this FSP.

FSP EITF 00-19-1 on Financial Instruments Issued as Employee Compensation

The FASB staff issued final FSP EITF 00-19-1 on May 31,2005. Under EITF Issue No. 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock," if an equity instrument contains a contractual requirement to deliver registered shares, the form of settlement (i.e., shares or cash) is considered outside the control of the issuer (unless the shares are fully registered at the inception of the contract). Therefore, the equity instrument is classified as a liability. The FSP clarifies that, for freestanding financial instruments originally issued as employee compensation, a requirement to deliver registered shares, in and of itself, will not result in liability classification. This clarification is consistent with the Board's intent in Statement 123(R). The guidance in this FSP, will be applied in accordance with the effective date and transition provisions of Statement 123(R).

Click here for full text of the FSP.

FASB and IASB Joint Exposure Drafts

The FASB and the IASB have each published an Exposure Draft containing joint proposals to change the accounting for business combinations to achieve further convergence in accounting. The proposed standards would replace the existing requirements of the FASB's Statement No. 141, Business Combinations, and the IASB's IFRS 3, Business Combinations.

The proposals would result in fewer exceptions to the principle of measuring assets acquired and liabilities assumed in a business combination at fair value. Additionally, the proposals would result in payments to third parties for consulting, legal, audit, and similar services associated with an acquisition being recognized generally as expenses when incurred rather than capitalized as part of the business combination.

The FASB also published an Exposure Draft that proposes, among other changes, that noncontrolling interests be classified as equity within the consolidated financial statements. The FASB's proposed standard would replace Accounting Research Bulletin No. 51, Consolidated Financial Statements, and the IASB's proposals are presented as Amendments to IAS 27, Consolidated and Separate Financial Statements.

The FASB proposes to make any final standards effective for years beginning on or after December 15, 2006. For the most part, the FASB proposes prospective adoption. However, certain provisions of the noncontrolling interest Exposure Draft would apply retroactively, requiring changes to comparative financial statements (if presented) back to the original date of acquisitions that predate the new standards.

Click here for additional information.

Click here for full text of the exposure drafts - Business Combinations, a replacement of FASB Statement No. 141, and Consolidated Financial Statements, Including Accounting and Reporting of Noncontrolling Interests in Subsidiaries, a replacement of ARB No. 51.

SEC and Other Regulatory Matters

Chief Accountant's Remarks at SEC Financial Reporting Institute Conference

On June 2, 2005, Donald Nicolaisen spoke at the SEC Financial Reporting Institute Conference in Pasadena, California. The speech discussed the difficulties of implementing Sarbanes-Oxley section 404 and briefly discussed one of Nicolaisen's key priorities: reducing complexity. The speech describes complexity as the direct result of (1) a desire to reduce volatility in the income statement, (2) the development of numerous exceptions to basic principles or (3) the application of detailed rules. Nicolaisen expects that reducing complexity in financial reporting will require the same type of discipline that we have seen businesses adhere to when implementing other quality improvement initiatives.

Click here for the entire speech.

Staff Legal Bulletin

Staff Legal Bulletin No. 14C, Shareholder Proposal

Staff Legal Bulletin No. 14C was issued on June 28, 2005 and provides information for companies and shareholders regarding rule 14a-8 under the Securities Exchange Act of 1934. The Bulletin includes: the addresses for submitting no-action requests and shareholder responses to those requests; the application of rule 14a-8(i)(6) to proposals calling for director independence; the application of rule 14a-8(i)(7) to proposals referencing environmental or public health issues; the application of rule 14a-8(l); the company facsimile number shareholder proponents should rely on when transmitting proposals and responses to notices of defects; the written materials that should accompany a no-action request; the withdrawal of a proposal submitted by multiple shareholder proponents; and the circumstances under which we will transmit our no-action responses by facsimile.

Click here for full text of the bulletin.

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SEC Report and Recommendations Pursuant to Section 401(c) of the Sarbanes-Oxley Act of 2002 On Arrangements with Off-Balance Sheet Implications, Special Purpose Entities and Transparency of Filings by Issuers

The Securities and Exchange Commission has released a staff report prepared by the Office of the Chief Accountant, the Office of Economic Analysis and the Division of Corporation Finance on off-balance sheet arrangements, special purpose entities and related issues. The report was prepared pursuant to Section 401(c) of the Sarbanes-Oxley Act of 2002. As required by that Act, the report has been submitted to the President, the Committee on Banking, Housing and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives. The staff report includes an analysis of the filings of issuers as well as an analysis of pertinent U.S. generally accepted accounting principles and Commission disclosure rules. The report describes the staff's study, details its findings, and provides recommendations.

The staff took a broad approach to the scope of the report by including a review of a range of topics with potential off-balance sheet implications, including consolidation issues, transfers of financial assets with continuing involvement, retirement arrangements, contractual obligations, leases, contingent liabilities and derivatives, as well as a discussion of special purpose entities (SPEs).

The report identifies several goals for those involved in the financial reporting community, including efforts to

- discourage transactions and transaction structures motivated primarily and largely by accounting and reporting considerations, rather than economics;
- expand the use of objectives-oriented standards;
- improve the consistency and relevance of disclosures; and
- focus financial reporting on communication with investors, rather than just compliance with rules.

The report also provides recommendations for certain changes in accounting and reporting requirements, each of which complement one or more of the goals mentioned above

- The staff recommends the accounting guidance for defined-benefit pension plans and other post-retirement benefit plans be reconsidered. The trusts that administer these plans are currently exempt from consolidation by the issuers that sponsor them, effectively resulting in the netting of assets and liabilities in the balance sheet. In addition, issuers have the option to delay recognition of certain gains and losses related to the retirement obligations and the assets used to fund these obligations.
- The staff recommends that the accounting guidance for leases be reconsidered. The current accounting for leases takes an "all or nothing" approach to recognizing leases on the balance sheet. This results in a clustering of lease arrangements such that their terms approach, but do not cross, the "bright lines" in the accounting guidance that would require a liability to be recognized. As a consequence, arrangements with similar economic outcomes are accounted for very differently.
- The staff recommends the continued exploration of the feasibility of reporting all financial instruments at fair value.
- The staff recommends that the Financial Accounting Standards Board continue its work on the accounting guidance that determines whether an issuer would consolidate other entities-including SPEs-in which the issuer has an ownership or other interest.
- The staff believes that, in general, certain disclosures in the filings of issuers could be better organized and integrated.

Click here for full text of the staff study.

Click here for a Heads Up on this report.

Highlights from the June 8-9, 2005 PCAOB Standing Advisory Group Meeting

June 8-9, 2005, Implementation of Section 404 and Auditing Standard No. 2.

The PCAOB has convened a Standing Advisory Group (SAG) to advise the Board on the establishment of auditing and related professional practice standards. The SAG is composed of approximately 30 highly qualified persons representing the auditing profession, public companies, investors and others. The Board also has granted six organizations observer status with speaking rights at all SAG meetings. Those six organizations are the Financial Accounting Standards Board, the Government Accountability Office, the International Auditing and Assurance Standards Board, the Securities and Exchange Commission, the Department of Labor, and the Auditing Standards Board of the American Institute of Certified Public Accountants.

The Board remains focused on promoting a Section 404 process that is effective and cost-efficient. Accordingly, the June 8-9, 2005 meeting continued the discussion of Section 404 implementation issues for auditors, issuers, and small businesses. The auditor panel discussed the May 16 policy statement issued by the PCAOB which addressed problems experienced by auditors in the first year and the auditors' first year experience on the coming year's audit approach, how planned changes are expected to improve the audit process, the processes that worked well in the prior year, and strategies for integrating the audit of internal control over financial reporting with the audit of the financial statements. In addition, a panel of issuers discussed the challenges they faced during the first year of implementation and how that will effect their approach in the upcoming year, what worked and what did not work in the issuers approach, and the changes they expect will improve the process. Furthermore, a panel

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discussed audit committee oversight. The discussion included ways the PCAOB could facilitate audit committee oversight of the Section 404 process, information audit committees need to receive from auditors in order to fulfill their responsibilities, and the effectiveness of requirements that the auditor communicate certain matters to the audit committee.

The panels also discussed the definitions of a material weakness, significant deficiency, control deficiency and how they were applied in the first round of internal control Audits and how issuers and auditors implemented Standard No. 2 on testing of multiple locations.

Click here for full text of briefing paper from June 8-9, 2005 PCAOB meeting.

Highlights of the March 22 and May 17, 2005 AICPA International Practices Task Force Meeting

The AICPA International Practices Task Force (the Task Force) meets periodically with the SEC Staff to discuss emerging technical accounting and reporting issues relating to SEC rules and regulations as they affect Foreign Private Issuers. The Task Force discussed the following topics at its March 22, 2005 meeting:

• Inflationary status of certain countries (includes a list of all highly inflationary economies as of February 28, 2005)

• Reporting issues: (a) on the division of responsibility; among auditors for the U.S. GAAP reconciliation (b) comfort on qualitative descriptions of GAAP differences in Rule 144A filings; (c) Regulation D offers to accredited investors; (d) MJDS and Canadian consents; (e) filing dates for MJDS; (f) SOX 404 reporting

• GAAP to be used in the capitalization tables and Schedule I

• Price-level adjusted cash flow statements

• IFRS issues: (a) Reporting on 2004 IFRS amounts; (b) Applicability of SAB 74 disclosures

• SEC Staff issues: (a) Staff accommodation permitting proportionate consolidation in U.S. GAAP financial statements of a foreign private issuer; (b) Extractive industries update; (c) Follow-up on Canadian compilation reports

The Task Force discussed the following topics at its May 17, 2005 meeting:

• Inflationary status of certain countries (includes a list of all highly inflationary economies as of April 30, 2005)

• Non-GAAP measures issues: (a) Operating and Financial Review in UK Annual Reports; (b) Non-GAAP measures and IFRS

• Mexico - Statement 112 and D-3

• SEC release on first time adoption of IFRS

• SEC Staff issues related to Italian GAAP versus Italian Company Law

Click here for full text of minutes to the Task Force meeting.

FAQs on IFRS implementation

On April 12, 2005, the SEC adopted its final rule *First-time Application of International Financial Reporting Standards*. Since the issuance of the final rule, several implementation questions have arisen.

In an effort to promote consistency in the application of the final rule and reducing uncertainties foreign private issuers may face during the transition year, the AICPA International Practices Task Force has developed a frequently asked questions document (see Appendix A).

The SEC staff has indicated that it does not object to the views expressed therein.

CESR issues final advice to the European Commission on the equivalence between GAAP of the US, Japan, and Canada ("Third Countries") and IFRS

On April 27, 2005, the Committee of European Securities Regulators (CESR) published a *Draft Technical Advice on Equivalence of Certain Third Country GAAP and on Description of Certain Third Countries Mechanisms of Enforcement of Financial Information.* See the May 2005 edition of this newsletter for more information.

Under new prospectus and market disclosure rules, the European Commission is charged with deciding whether foreign GAAPs offer "equivalence'' of information with IFRS. Such a finding would relieve foreign issuers from having to reconcile their accounts to IFRS.

The CESR published for consultation its draft advice to the European Commission regarding its assessment of the equivalence of Generally Accepted Accounting Principles (GAAP) in the US, Canada and Japan (Third Countries) with IFRS.

In response to comments received, CESR has made a number of changes and clarifications to the draft advice that it published in May 2005.

Determination of need to apply "remedies" to differences between Third Country GAAP and IFRS

CESR has stated that the need to apply "remedies" (where there are significant differences between Third Country GAAP and IFRS) should be judged by issuers on the basis of whether the differences are material to the financial position of the company and so would be significant for the purposes of investors. Furthermore, CESR has clarified that only in exceptional cases should issuers need to go beyond the list of significant differences between Third Country GAAP and IFRS that CESR has identified in its advice. Previously, there was a wide "catch all" provision that could be interpreted as requiring issuers to look at all applicable accounting standards and make a judgment on whether the differences are relevant and/ or material.

CESR has also clarified the meaning of "relevance" and "material" in assessing which of the significant differences identified in its advice an issuer needs to deal with by way of remedies in accounts provided in a prospectus under the Prospectus Directive or the Transparency Directive.

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Relevance is essentially a test of whether the difference is applicable to that issuer - for example if an issuer does not issue any share options then it would not need to consider remedies to deal with any significant differences between US GAAP and IFRS in this respect. CESR has stated that a remedy would be considered material "if [its] omission could influence the economic decisions of users taken on the basis of the financial statements; materiality depends on the size of the item judged in the particular circumstances so its omission" (as per paragraph 30 of the IAS Framework). As noted above, materiality should also be considered in the context of being significant for the purposes of investors.

Role of auditors

CESR has clarified the role and responsibilities of the auditor and the issuer after considerable comment from respondents on this issue. CESR has said that it is important that auditors give an opinion on the proper presentation and preparation of the remedies (if any) and that in some circumstances this could require two separate audit opinions to be given (which many respondents had argued against).

CESR does not state that the auditors need to opine on the extent to which remedies are "relevant" or "material" to an issuer.

Other points in the final advice

Some respondents to the consultation on the draft advice had argued that the obligations should differ between debt and equity issuers. However, CESR did not agree, as it was focusing on ensuring understanding of third country financial statements rather than the aspects of those statements relevant to investors in particular types of security. Given CESR's advice elsewhere on the need to assess what remedies are material by reference to investors, it seems that CESR means investors in any type of security (i.e. equity and debt) in this context.

CESR noted that the review of equivalency had been made on the GAAPs as of 1 January 2005 and advised that a fresh review should take place in January 2007, which would be at the end of the transitional period (i.e. after which third country GAAPs are no longer capable of being used under the Prospectus Directive unless they are deemed equivalent to IFRS). In this regard, CESR noted that a roadmap for convergence between US GAAP and IAS had been established by the US SEC and the European Commission to eliminate all differences between these GAAPs by 2009.

Finally, this does not take effect until January 1, 2007, when the Prospectus Directive exemption period ends and the Transparency Directive is due to be implemented. Until January 1, 2007, issuers can generally use any third country GAAP in a prospectus or in their periodic accounts without needing to include remedies on significant differences (subject to those accounts giving a true and fair view).

Click here to go to CESR website where full text of the advice is located.

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Recent Deloitte Publications

Below is a list of Deloitte publications about the most recent rule proposals and legislative actions.

- Heads Up: Vol. 12, Issue 4, "SPEs…and More! SEC Staff Issues Report to President and Congress"
- Heads Up: Vol. 12, Issue 5, "Construction Ahead: Use Caution When Merging FASB Issues Exposure Drafts in Phase II of Its Business Combinations Project"
- Accounting Roundup: June 30, 2005
- Accounting Roundup: 2nd Quarter in Review 2005
- EITF Roundup: June 2005
- Audit Committee Brief: June 2005
- Under Control, Guidance for Sustaining Compliance with Sarbanes-Oxley Section 404

continued on next page.

- A Framework for Evaluating Control Exceptions and Deficiencies

- IAS Plus Website -

  Deloitte's IAS Plus website discusses current and future developments in the International Financial Reporting Standards (IFRS) environment.

- e-Learning training materials for International Financial Reporting Standards
  Deloitte is pleased to make available e-learning training materials for IFRS free of charge. Click here to Access Deloitte's IFRS e-Learning Material.

Other useful publications can be obtained on Deloitte's website – Click here

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Webcasts

Deloitte offers Dbriefs, live webcasts for executive level audience
April–June 2005 Program Guide

Below please find the scheduled webcasts for the 3rd quarter 2005 across functions:

Financial Executives

Driving Enterprise Value
Host: David Brainer, Principal - Deloitte Consulting LLP

Entering the Chinese Market: How to Get In and Where to Locate
Wednesday, July 20, 3:00 PM EDT (20:00 GMT)
1 CPE credit: Management Advisory Services/Accounting
China remains the world's hottest location for direct foreign investment, yet entering is anything but easy. We'll discuss:

- Market forces making China attractive – is the market overheating?
- Current trends affecting where and how companies invest.
- Business model options, including sourcing, joint ventures, acquisitions and wholly owned foreign enterprises.
- Recent regulations changing the way foreign companies operate.
- Location variables, including regional and local conditions.
- Emerging cities challenging the traditional coastal zones for foreign investment.
- Comparison of China to emerging competitors for foreign investment.

Learn how to choose the right location and entry strategy – and how to optimize your operation once it's established.

Linking IT to Shareholder Returns: How IT Creates (and Destroys) Value
Wednesday, August 17, 3:00 PM EDT (20:00 GMT)
1 CPE credit: Management Advisory Services/Accounting (Governmental)
What drives shareholder value – and what role does information technology play in the process? We'll discuss:

- Where IT creates value by supporting, enabling or accelerating key processes.
- Leveraging IT to grow revenue and improve the productivity of operations and assets.
- Processes most critical to competitiveness and profitability.
- Translating shareholder value into understandable terms – revenue growth, operating margin and asset efficiency.

Learn how IT can boost shareholder value by improving speed, quality, cost and processes, including governance, performance measurement, risk, security and compliance.

Managing Projects as a Portfolio: How to Maximize Value Through Alignment
Wednesday, September 21, 3:00 PM EDT (20:00 GMT)
1 CPE credit: Management Advisory Services/Administrative Practice
Many executives admit they aren't sure what results to expect from their portfolio of improvement projects. They've examined the individual business cases, but don't know how one initiative affects the others or how various projects align with their overall business strategy. We'll discuss:

- Looking beyond the costs and benefits of individual projects.
- Understanding a portfolio's total impact.
- Aligning projects with each other – and with the overall strategy.
- Making the transition to a portfolio approach.

Learn how portfolio management can increase the total value of your improvement initiatives and reduce your overall risk.

Sarbanes-Oxley
Host: Steve Wagner, Partner - Deloitte & Touche LLP

Sustained Compliance: How to Meet Organizational Challenges Head-On
Wednesday, August 10, 2:00 PM EDT (18:00 GMT)
1 CPE credit: Business Management & Organization/Auditing (Governmental)
Achieving sustained and effective compliance requires centralized standards, knowledge, and communication. However, your people still need to apply these tools effectively. So how do you ensure they do? We'll discuss:

- How to structure ethics and compliance management, including reporting lines for the ethics and compliance officer, the role of internal audit and risk management, and where the expertise on financial controls should reside.
- How training can successfully embed compliance accountability into operational roles.

Learn how to establish a regimen that will encourage appropriate business judgment and ongoing compliance.

Sustained Compliance in Action: What Are Companies Really Doing?
Wednesday, September 14, 2:00 PM EDT (18:00 GMT)

Co-Host: Mark Layton, Partner - Deloitte & Touche LLP
1 CPE credit: Management Advisory Services/Behavioral Ethics
How are leading companies successfully moving their

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compliance initiatives from a project to a sustained program? Join us as several public companies share their insights on:

- Approaches for promoting an effective compliance mindset.
- Integrating compliance roles and responsibilities into the organization.
- Implementing approaches to evaluate controls in a balanced manner.
- Identifying, evaluating, and reporting on material changes in internal control.
- Applying technology to streamline and enhance assessment activities.

Learn from the real-life experiences of companies that have started the journey to integrate internal control into their organization's DNA.

Financial Reporting
Host: Host: Jim Johnson, Partner - Deloitte & Touche LLP

FASB's Proposals on Accounting for Business Combinations and Noncontrolling Interests
Monday, July 18, 2:00 PM EDT (18:00 GMT) *1.5 hour event
1.5 CPE credits: Accounting/Economics
FASB is expected to issue exposure drafts of two proposed statements at the end of June 2005: Purchase Method Procedures and Accounting for Noncontrolling Interests. We'll discuss the main differences between FASB's proposals and current accounting rules, and how they will impact your financial statements. Examples include:

- FASB's shift to fair value from the current cost-based approach.
- The Purchase Method Procedures proposal's effect on the purchase price allocation.
- Changes to the presentation of noncontrolling (minority) interests.
- Proposed effective dates and transition provisions.

Understand how the FASB's proposal could impact future transactions and how to prepare for them.

EITF Roundup: Highlights of the September Meeting
Tuesday, September 20, 2:00 PM EDT (18:00 GMT) *1.5 hour event
1.5 CPE credits: Accounting/Finance
The FASB's Emerging Issues Task Force (EITF) will meet in September to review emerging issues. We'll discuss the results of this meeting, which we expect will include:

- Issues not resolved at the June 2005 meeting.
- Additional issues added to the Task Force agenda.

Stay on top of implementing new accounting guidance and potential future guidance resulting from the deliberations of the EITF.

Corporate Governance
Host: Greg Weaver, Partner - Deloitte & Touche LLP

The Latest Corporate Governance Trends – How Does Your Board Stack Up?
Tuesday, August 2, 2:00 PM EDT (18:00 GMT)
1 CPE credit: Management Advisory Services/Business Management & Organization
Corporate governance is ever-changing, and board practices are evolving with it. We'll discuss:

- Trends in size, composition, leadership and director compensation, and why changes have occurred.
- Audit committee trends and what you need to know, including member backgrounds and committee meetings.
- Diversity trends and why board gender and ethnic diversity has slowed.
- Current key issues, including the move away from stock options in director compensation.

Hear about the latest governance trends from the IRRC and compare your board's practices with those of the S&P Super 1500 companies.

So You've Been Asked to Join a Board? What Every Financial Executive Needs to Know
Thursday, September 8, 2:00 PM EDT (18:00 GMT)
1 CPE credit: Personal Development/Communications
Chief financial executives are increasingly being asked to join boards of directors. What should you do if a recruiter or nominating committee calls you? We'll discuss:

- Rewards and risks of board service, including networks you can build, what you can learn, potential liability, time commitment, and compensation.
- Due diligence you should undertake, including who to talk to and what questions to ask.
- Seeking permission from your CEO and/or board and how to know when you're stretched too thin.

Consider all of the facts so that you can make the best decision.

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What is and How to Subscribe DART?

Deloitte makes available, on a subscription basis, its online library of accounting and financial disclosure literature. Called the Deloitte Accounting Research Tool (DART), the library includes material from the FASB, the EITF, the AICPA, the SEC, and the IASB, in addition to Deloitte's own accounting manual and other interpretative accounting guidance.

Updated every business day, DART has an intuitive design and navigation system, which, together with its powerful search features, enables users to quickly locate information anytime, from any computer. Additionally, DART subscribers receive periodic e-mails highlighting recent additions to the DART library.

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APPENDIX A

AICPA International Practices Task Force
Frequently Asked Questions:
SEC Rule *First-Time Application of International Financial Reporting Standards*

On April 12, 2005, the SEC adopted its final rule *First-time Application of International Financial Reporting Standards (IFRS)*. Since the issuance of the final rule, several implementation questions have arisen. In an effort to promote consistency in the application of the final rule and reducing uncertainties foreign private issuers may face during the transition year, the AICPA International Practices Task Force has developed the following frequently asked questions based on discussions with the SEC staff. The SEC staff has indicated that it does not object to the views expressed herein.

The parenthetical references throughout the Appendix are to pages in the final rule, SEC Release No. 33-8567 (hereinafter, referred to as the "adopting release" or "Release") and are included to facilitate reference to the Release as it relates to the specific frequently asked question.

I. Eligibility

Q1. The adopting release specifies that a foreign private issuer is eligible for the accommodation when an "annual report relates to the first financial year starting on or after January 1, 2007 or an earlier financial year" (page 8). The Instructions to Form 20-F specifies that "The annual report relates to the 2007 financial year or an earlier financial year" (page 56). New General Instruction G(a) (page 55) indicates that "… the term 'financial year' refers to the first financial year beginning on or after January 1 of the same calendar year." Is the accommodation limited to financial years that begin prior to or on December 31, 2007?

A. Yes. The accommodation is limited to financial years that begin prior to or on December 31, 2007.

Q2. The adopting release provides that if a first-time adopter has published (voluntarily or has been required to do so pursuant to other regulations) audited IFRS financial statements for the third financial year, then the SEC filing must include audited financial statements prepared in accordance with IFRS for all three years (i.e., the date of transition is January 1, 2003) (Pages 12 and 60). Would the IFRS financial statements for the third financial year included in a SEC filing need to fully comply with IFRS and be audited in accordance with PCAOB standards?

A. Yes. The financial statements for the third financial year should fully comply with IFRS and be audited in accordance with PCAOB standards.

Q3. The adopting release provides that if a first-time adopter has published (voluntarily or has been required to do so pursuant to other regulations) audited IFRS financial statements for the third financial year, then the SEC filing must include audited financial statements prepared in accordance with IFRS for all three years (Pages 12 and 60). If presented, would the first-time adopter be required to provide a reconciliation from IFRS to US GAAP for the third year?

A. Yes. The first-time adopter would be required to provide a reconciliation from IFRS to US GAAP for all three years presented, unless otherwise allowed by SEC rules for a first-time SEC registrant to omit the US GAAP reconciliation for the third preceding year.

Q4. Assume a first-time adopter, in its first year of adoption, publishes IFRS financial information for periods prior to its transition date to IFRS (voluntarily or has been required to do so pursuant to other regulations). This information could take various forms, but in all instances would include information intended to depict what the IFRS information would have been had the issuer reported under IFRS in periods preceding the transition date (for example, a 2005 first-time adopter with a January 1, 2004 transition date has published IFRS financial information with respect to 2003 "as if" the issuer had applied IFRS in 2003). Would the first-time adopter be required to, or could it elect to, include the previously published IFRS financial information for periods prior to its transition date in an SEC filing?

A. No. A first-time adopter should only include periods that begin on or after its transition date to IFRS, as included in its first IFRS financial statements filed with the SEC.

II. Registration Statements in the Transition Year

Q5. The adopting release acknowledges that an issuer may be unable to comply fully with IFRS for interim financial information during the Transition Year. What standards would be acceptable to use as part of a disclosed basis of presentation in preparing IFRS financial information (annual or interim) during the Transition Year?

A. The accounting standards (and related interpretations) used as part of the basis of presentation would be determined by each issuer based on its particular facts and circumstances. The following are alternative bases of presentation that may make "reference to IFRS" during the transition year:

- "IFRS as Published" (sometimes referred to as "IFRS as Issued") means that the financial information is prepared in accordance with IFRS standards to the extent that the IFRS standards are published/issued as of a date in time prior to the issuance of the financial information (e.g., June 30, 2005 interim financial information issued on August 1 would be prepared in accordance with IFRS, including IFRIC interpretations published as of August 1). Management should disclose that the published/issued IFRS standards may change due to new IASB standards or promulgated interpretations that would be effective when management prepares its first set of IFRS financial statements at December 31, 2005. For example, a company could not apply the proposed amendments to the transitional provisions of IAS 39 when reporting on an "IFRS as Published" basis, prior to the IASB's approval and issuance of a final standard. In substance, this is no different from any other company preparing its financial statements under IFRS.

- "IFRS as adopted by the European Commission for use in the European Union" ("EU GAAP") means that the financial information is prepared in accordance with EU GAAP to the extent that EU GAAP are effective, or issued and early adopted as of a date in time at or prior to the issuance of the financial information (e.g., June 30, 2005 interim financial information issued on August 1 would be prepared in accordance with EU GAAP as of August 1). Management should disclose that the published/issued EU GAAP may change due to new IASB standards, promulgated interpretations, or actions by the European Commission that would be effective when management prepares its first set of IFRS financial statements at its reporting date (e.g., December 31, 2005 for a 2005 calendar year-end first-time adopter). Because EU companies must comply with accounting standards adopted by the European Commission, it may be possible for EU companies to prepare financial statements that comply with EU accounting regulations ("EU GAAP") but do not comply with IFRS.

In some cases, first-time adopters have applied "Expected IFRS" as a disclosed basis of accounting. This disclosed basis of accounting generally would include those standards that have not been adopted by the IASB and/or endorsed by EU, but are "expected" to be adopted and/or endorsed by the EU by December 31, 2005. That is, in preparing the financial information at an interim date, the company would be applying accounting standards that have been issued and/or endorsed, as well as accounting standards that it expects to be issued and/or endorsed by December 31, 2005. For example, if an EU foreign private issuer applies the proposed amendments to the transitional provisions of IAS 39 when reporting on an "Expected IFRS" basis, management would not be able to represent that the 2005 interim financial information was prepared in accordance with currently published/issued standards (i.e., the disclosed basis of accounting would not represent a comprehensive basis of generally accepted accounting principles). This type of disclosed basis of presentation (i.e., "Expected IFRS") should not be included in (or incorporated by reference into) an SEC registration statement.

AICPA International Practices Task Force
Frequently Asked Questions:
SEC Rule *First-Time Application of International Financial Reporting Standards*

Q6. The adopting release acknowledges that an issuer may be unable to comply fully with IFRS for interim financial information during the Transition Year and that the issuer should provide appropriate cautionary language in this regard (footnote 41 and pages 23 and 24). What would be "appropriate cautionary language" to disclose in IFRS financial information (annual or interim) presented during the Transition Year?

A. Appropriate disclosure should be determined by each issuer based on its particular facts and circumstances. Set forth below are examples of disclosures that an issuer might include in the notes to the interim financial information that makes "reference to IFRS" during the transition year; however, as noted above, such examples should be modified, where appropriate, in response to the facts and circumstances applicable to a specific issuer.

1. The following is an example of the cautionary language that could be included, modified as appropriate in light of particular facts and circumstances, in the basis of presentation note to interim financial information prepared in accordance with "IFRS as Published" during the transition year:

   The Company will adopt IFRS for the first time in its financial statements for the year ended December 31, 2005, which will include comparative financial statements for the year ended December 31, 2004. IFRS 1 First-time Adoption of International Financial Reporting Standards requires that an entity develop accounting policies based on the standards and related interpretations effective at the reporting date of its first IFRS financial statements. IFRS 1 also requires that those policies be applied as of the date of transition to IFRS and throughout all periods presented in the first IFRS financial statements. The accompanying interim financial information as of and for the six month periods ended June 30, 2005 and 2004, have been prepared in accordance with those IASB standards and IFRIC interpretations issued and effective, or issued and early-adopted, at [insert date]. The IASB standards and IFRIC interpretations that will be applicable at December 31, 2005, including those that will be applicable on an optional basis, are not known with certainty at the time of preparing this interim financial information. As a result, the accounting policies used to prepare these financial statements are subject to change up to the reporting date of the Company's first IFRS financial statements.

2. The following is an example of the cautionary language that could be included, modified as appropriate in light of particular facts and circumstances, in the basis of presentation note to interim financial information prepared in accordance with "EU GAAP" during the transition year:

   The Company will adopt "IFRS as adopted by the European Commission for use in the European Union" ("EU GAAP") for the first time in its financial statements for the year ended December 31, 2005, which will include comparative financial statements for the year ended December 31, 2004. IFRS 1 First-time Adoption of International Financial Reporting Standards requires that an entity develop accounting policies based on the standards and related interpretations effective at the reporting date of its first IFRS financial statements. IFRS 1 also requires that those policies be applied as of the date of transition to IFRS and throughout all periods presented in the first IFRS financial statements. The accompanying interim financial information as of and for the six month periods ended June 30, 2005 and 2004, have been prepared in accordance with those EU GAAP effective, or issued and early adopted, at [insert date]. The EU GAAP that will be applicable at December 31, 2005, including those that will be applicable on an optional basis, are not known with certainty at the time of preparing this interim financial information. As a result, the accounting policies used to prepare these financial statements are subject to change up to the reporting date of the Company's first IFRS financial statements.

Q7. For registration statements effective 9 months or less after year-end, new Instruction G(f)(2)(A) specifies that Instruction 3 of the Instructions to Item 8.A.5 does not apply to financial information (annual or interim) prepared with a "reference to IFRS." The final rule does not define what is meant by "reference to

IFRS." What disclosed basis of presentation would be acceptable in preparing financial information (annual or interim) with "reference to IFRS"?

A. A first-time adopter could satisfy the requirement in Instruction G(f)(2)(A) by providing financial information (annual or interim) on a disclosed basis of presentation, as discussed in Question 5. The basis of presentation would disclose the accounting principles used to prepare the financial information.

Interim financial information presented under a disclosed basis of presentation may not necessarily be presented in accordance with IAS 34, *Interim Financial Reporting*. In such instances, a first-time adopter would not have represented that it had prepared its interim IFRS financial information in accordance with IAS 34 and, therefore, any subsequent accounting policy changes made during the Transition Year would not need to comply with IAS 8, *Accounting Policies, Changes in Estimates and Errors*. Consequently, subsequent accounting policy changes would not be subject to the "preferability" test in IAS 8 and would not result in the restatement of any prior interim IFRS financial information. However, appropriate disclosure regarding any such accounting policy changes should be included in any interim IFRS financial information of a subsequent interim period during the Transition Year, as well as, in the first IFRS financial statements.

In all instances, if interim IFRS financial information is determined to be in error, such information would be corrected pursuant to IAS 8 and the relevant guidance in the SEC's rules and regulations.

Q8. For registration statements effective more than 9 months after year-end, New Instruction G(f)(2)(B)(iii) (the "US GAAP Condensed Information Option") provides interim financial information should be "in accordance with IFRS." For purposes of the "US GAAP Condensed Information Option," how would a foreign private issuer satisfy this requirement?

A. A foreign private issuer could satisfy the requirement by providing a complete set of financial statements, including a balance sheet, an income statement, a statement showing either all changes in equity or changes in equity other than those arising from capital transactions with owners and distributions to owners, a cash flow statement, and accounting policies and other explanatory notes that would be required by IAS 1 *Presentation of Financial Statements*. There would be no difference in informational content compared to the annual financial statements.

Alternatively, a foreign private issuer could satisfy the requirement by providing interim financial information that complies with IAS 34, including the disclosures required by paragraphs 45 and 46 of IFRS 1 *First-time Adoption of International Financial Reporting Standards*.

First-time adopters preparing interim IFRS financial information that complies with either of the above alternatives would need to comply with IAS 8 for any errors and subsequent accounting policy changes made during the Transition Year. In the case of accounting policy changes, the new accounting policy should result in the IFRS financial information providing reliable and more relevant information about the effects of transactions, other events or conditions on the entity's financial position, financial performance or cash flows (i.e., it is "preferable"). In addition, the IFRS financial information of prior interim periods during the Transition Year and the comparable interim periods of any prior financial years would need to be restated in accordance with IAS 8.

Q9. If a foreign private issuer utilizes the "US GAAP Condensed Information Option" to satisfy the interim financial information requirements in a registration statement effective more than 9 months after year-end, is the foreign private issuer required to provide a full set of interim financial information prepared in accordance with US GAAP for the interim period in order to satisfy the final rule's requirement that the condensed US GAAP information provided be at a level of detail substantially consistent with that required by Article 10 of Regulation S-X?

A. No. A condensed balance sheet, income statement and accompanying footnotes prepared in accordance with US GAAP would satisfy the final rule's requirement, provided the interim IFRS financial information at least complies with IAS 34 (including the disclosures required by paragraphs 45 and 46 of IFRS 1) and includes a condensed statement of cash flows prepared in accordance with IAS 7.

Q10. New Instruction G(f)(2)(B)(ii) (the "IFRS Option") specifies that, for registration statements effective more than 9 months after year-end, financial information (i.e., annual and interim) should be "in accordance with IFRS." The adopting release provides the following example: "… a 2005 first-time adopter would present audited financial statements for 2003 and 2004 and unaudited financial statements for the six months (or nine months) of 2004 and 2005, all in accordance with IFRS and reconciled to U.S. GAAP" (Page 26). In this example, what would be the foreign private issuer's reporting date for purposes of its first-time adoption of IFRS?

A. A foreign private issuer that provides audited financial statements "in accordance with IFRS" for the 2003 and 2004 years would have adopted IFRS as of a 2004 reporting date (e.g., December 31, 2004). Therefore, the foreign private issuer would be adopting IFRS earlier than 2005 (i.e., the transition date would be January 1, 2003). However, in this case, the foreign private issuer still would be able to avail itself of the accommodation provided by the final rule that permits a first-time adopter to omit IFRS financial statements for the third financial year (i.e., IFRS financial statements for 2002 would not be required).

III. Exceptions

Q11. The adopting release provides that when relying on a mandatory exception, an issuer must describe the exception as provided for in IFRS 1 and state that it complied (page 31), and further indicates that this disclosure should be included in an issuer's disclosure pursuant to Item 5, which provides information on the issuer's financial and operating review and prospects. However, this requirement is not included in the new Instruction G or in other parts of the amended Form 20-F. When relying on a mandatory exception, is an issuer required to describe the exception required by IFRS 1 and state that it complied?

A. Yes. A foreign private issuer is required to provide this disclosure pursuant to Item 5 *Operating and Financial Review and Prospects*. Further, Instructions 3.b to Item 8 (page 62) provides that "To the extent the primary financial statements reflect the use of exceptions permitted or required by IFRS 1, the issuer shall identify each exception used, including: i) An indication of the items or class of items to which the exception was applied; and ii) A description of what accounting principle was used and how it was applied."

Q12. A new Instruction to Item 5, *Operating and Financial Review and Prospects* outlines the disclosure requirements related to the use of exceptions permitted or required by IFRS 1. Specifically, new Instruction 5 4.b. to Item 5 provides "where material, qualitative disclosure of the impact on financial condition, changes in financial condition and results of operations that the treatment specified by IFRS would have had absent the election to rely on the exception." Is the first-time adopter required to provide these disclosures only for "elective" exceptions?

A. Yes. This disclosure is required only for "elective" exceptions. This is based on the adopting release (page 31), which states that "when relying on an elective exception, an issuer must include, where material, qualitative disclosure of the impact on the issuer's financial condition, changes in financial condition and results of operations."

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IV. EU GAAP Matters

Q13. Under the "IFRS Option," could a foreign private issuer provide financial statements in accordance with EU GAAP" to satisfy the requirements?

A. Yes. The Special Instruction for Certain European Issuers (page 60) provides that financial information "in accordance with EU GAAP" would be acceptable to satisfy the requirements of the "IFRS Option."

Q14. For registration statements filed more than 9 months after year-end, the "US GAAP Condensed Information Option" specifies that interim financial information should be "in accordance with IFRS" (see Question 7). Under the "US GAAP Condensed Information Option," would interim financial information prepared in accordance with EU GAAP satisfy the requirements?

A. Yes, provided the informational content of the interim financial information would comply with one of the alternatives in the answer to Question 7. In addition, the foreign private issuer would be required to provide reconciliations to IFRS as published by the IASB that includes information relating to financial statement line items and footnote disclosures equivalent to that required under IFRS as published by the IASB for interim financial information. Furthermore, the foreign private issuer should provide additional selected financial data based on IFRS as published by the IASB, and the *Operating and Financial Review and Prospects* should focus on the primary financial statements prepared in accordance with EU GAAP, with a discussion of any differences between EU GAAP, IFRS as published by the IASB, and U.S. GAAP not otherwise discussed in the reconciliation footnote to the extent necessary to understand the financial statements as a whole.

Q15. New Instruction G specifies that Item 4.B, *Business Overview* and Item 11, *Quantitative and Qualitative Disclosures about Market Risk* should be presented on the basis of IFRS (page 56 & 57). If the primary financial statements are EU GAAP, should these items be prepared on the basis of EU GAAP?

A. Yes. The Special Instruction for Certain European Issuers (page 60) provides that financial information "in accordance with EU GAAP" would be required to satisfy the requirements of Item 4.B and Item 11.

V. Other Disclosures

Q16. New Instruction G permits foreign private issuers in the first year of adoption of IFRS to provide Previous GAAP selected financial data (pages 59 -60). In the first year following the year of transition (e.g., 2006 for a 2005 first-time adopter), can the foreign private issuer continue to provide the previous GAAP selected financial data for years prior to the transition date in subsequent years (e.g., 2006)?

A. Although new Instruction G (b) only addresses the provision of Previous GAAP selected financial data in the Transition Year, a foreign private issuer may continue to provide selected financial data for prior years under Previous GAAP in the year following the year of transition and in each year thereafter until 5 years of IFRS selected financial data is required to be presented.

Q17. New Instruction G provides "Special Instruction for Certain European Issuers" when a foreign private issuer changes from Previous GAAP to IFRS as adopted by the European Union (page 60). As part of these special instructions, a European issuer would provide an audited footnote reconciliation to IFRS as published by the IASB, containing information relating to financial statement line items and footnote disclosures equivalent to that required under IFRS as published by the IASB (e.g., an entity applying EU GAAP must include footnote disclosure that complies with IAS 32, *Financial Instruments: Disclosure and Presentation*, even if it does not fully apply IAS 39 relating to hedge accounting). In the years after the year of transition (e.g., 2006 and after for a 2005 first-time adopter), is the European issuer required to continue to provide a reconciliation from EU GAAP to IFRS as published by the IASB (e.g., 2006)?

A. No. New Instruction G, including instruction G (b), is only applicable in annual reports and registration statements for the year in which the foreign private issuer adopts EU GAAP for the first time and utilizes the two-year accommodation available to foreign private issuers upon their initial adoption of IFRS.

VI. Furnished Information

Q18. A foreign private issuer may furnish IFRS financial information (annual or interim) on a Form 6-K during the Transition Year. This information may or may not comply with IAS 1 or IAS 34. How should any accounting policy changes be accounted for in subsequent IFRS financial information furnished on a Form 6-K?

A. Where such information complies with IAS 1 or IAS 34, any subsequent accounting policy changes made during the Transition Year should comply with IAS 8. In cases where a "basis of presentation" is being used (i.e., IAS 34 is not being complied with) appropriate disclosure regarding the policy change should be included in any interim IFRS financial information of a subsequent interim period during the Transition Year, as well as, in the company's first IFRS financial statements.

In all instances, if the IFRS financial information is determined to be in error, such information should be corrected pursuant to IAS 8 and the relevant guidance in the SEC's rules and regulations.