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Director of Major Projects - File Reference No 1102-100
Financial Accounting Standards Board
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Letter of Comment No: 5562
File Reference: 1102-100

Dear Sir

Comments on Exposure Draft of SFAS 123

Lane Clark & Peacock LLP (LCP) is pleased to respond to the consultation on the SFAS 123 exposure draft. LCP is a leading firm of consulting actuaries in the UK, with 56 Partners and over 250 staff. The firm provides actuarial advice across many areas including employee benefits, investment, insurance, and risk management.

We believe that the Board should note a technical point where the Exposure Draft may differ from IFRS2. This could lead to significant differences in the charges calculated under the two standards for many UK companies.

Many UK companies include a performance condition for awards under share plans, that is related to their Total Shareholder Return (TSR). Such performance criteria often take account of share price movements together with dividends paid over a specified period. Normally, the company's own TSR is compared with that of a comparator group. For example, the awards may be contingent on the company's TSR over a three-year performance period being ranked in the upper quartile of TSRs for the companies comprising the chosen comparator group.

- IFRS2 defines a market condition as "*a condition upon which the exercise price, vesting or exercisability of an equity instrument depends that is related toachieving a specified target that is based on the market price of the entities equities instruments relative to an index of market prices of equity instruments of other entities*".
- The Exposure Draft defines a market condition as "*a condition affecting the exercise price, exercisability, or other pertinent factors...that relates to the achievement*

of...(b) a specified price of the issue's shares in terms of a similar (or index of similar) equity security (securities)."

A typical TSR target, therefore, falls under the definition of market condition in IFRS2, but does not appear to fall within the definition set out in the Exposure Draft.

Under either standard (paragraphs 19-21 of IFRS2 or paragraphs 26D-26E of the Exposure Draft), market conditions are taken into account when estimating the fair value of the award, and an expense is made irrespective of whether that market condition is satisfied. Non-market conditions are not taken into account in the fair value of the award, and previously recognised charges are reversed if the non-market condition is not satisfied.

Therefore, a company making awards with these types of performance conditions may end up with significantly different charges under International GAAP and US GAAP.

It would be very helpful if the Board could clarify the treatment of a TSR (or similar) target.

Yours sincerely

{Sent as an attachment to an e-mail on 30th June 2004 at 12:48}

Matthew Pearlman FIA
Partner