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www.drsc.de - info@drsc.de

DSR – öffentliche SITZUNGSUNTERLAGE

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TOP:	**133_05 – DP Leases**
Thema:	**Stellungnahme an den IASB**
Papier:	**133_05c_DCL DSR zum DCL EFRAG**

DRSC e. V. • Zimmerstr. 30 • 10969 Berlin

Telefon +49 (0)30 206412-12
Telefax +49 (0)30 206412-15
E-Mail info@drsc.de

EFRAG
Stig Enevoldsen
13-14 Avenue des Arts
B-1210 Brussels
Belgium

Berlin, 6 July 2009

EFRAG Draft Comment Letter on IASB Discussion Paper 'Leases – Preliminary Views'

Dear Stig,

On behalf of the German Accounting Standards Board (GASB) I am writing to comment on EFRAG's draft comment letter on the IASB Discussion Paper *Leases – Preliminary Views*. We appreciate the opportunity to comment on EFRAG's draft comment letter.

Overall, we agree with EFRAG's comments regarding the proposals included in the DP. Like EFRAG, we are also concerned with the accounting for more complex leases with term options and contingent rentals. The proposals as provided in the DP result in recognition of amounts that do not meet the definition of a liability. However, we do not agree with this result - largely driven by pragmatic considerations - with regard to the proposed approach for options, as explained in more detail in our answers to the DCL's 'questions for constituents' in the appendix to this letter.

For further detailed comments we refer to our comment letter to the IASB's Exposure Draft, which we attach to this letter.

If you would like to discuss any aspects of this comment letter in more detail, please do not hesitate to contact me.

Yours sincerely,

Liesel Knorr
President

APPENDIX

Chapter 3: Approach to lessee accounting

Question to EFRAG's constituents

As the paragraphs above show, EFRAG members are divided on this issue. Some believe that the approach the DP proposes is the only practical approach and is also the most useful (it focusing on the expected cash outflows from the lease); whilst others believe that that approach will result in amounts being recognised that are not understandable or comparable and misrepresents the flexibility the lessee has.

We would therefore particularly welcome your views on the issue. Do you agree with the approach proposed in the DP? If not, what are your major concerns and why do you believe that the components approach is capable of practical implementation?

We do not support the proposed approach since we consider it to cause conceptual problems and inconsistencies because in other areas of IFRS accounting a components approach is generally adopted. We believe that the adoption of the approach as tentatively preferred by the boards could lead to obligations to pay rentals that do not meet the definition of a liability (because the lessee does not have a present obligation). Therefore, we recommend the boards to implement the components approach since we consider it to be necessary to properly reflect multi-element arrangements within lease contracts in the financial statements - specifically to identify and measure separately options to extend a lease, or obligations to make payments under residual value guarantees. This is because we consider the separate recognition and measurement of options and other arrangements to be critical for providing users of financial statements with decision-useful information.

We understand that the boards identified problems associated with requiring a lessee to recognise the components of a lease separately and tentatively decided not to adopt a components approach to accounting for complex lease contracts. However, we do have concerns to be concessive on conceptually essential elements of accounting under IFRS purely based on practical constraints.

Further, in our understanding, the tentative decision as taken by the boards is not in line with the proposals made by the boards in the DP *Preliminary Views on Revenue Recognition in Contracts with Customers*. Although we understand that the DP on leases does not deal with revenue recognition issues, we consider that the proposal should not implement a one-asset / one-liability approach as laid out above that is not in line with the proposals made in the DP on revenue recognition.

Chapter 6: Leases with options

Question to EFRAG's constituents

As the paragraphs above show, EFRAG members are divided on this issue. We would therefore particularly welcome your views on the issue. Do you agree with the approach proposed in the DP? If not, what are your major concerns? And what approach would you favour instead?

We do not support the approach tentatively proposed by the boards which is to account for these rights under the "one-asset approach".

We prefer to account for the option as a separate asset, i.e. as a separate component of the lease contract including a fair value measurement at initial recognition. In our understanding this approach better reflects the economic substance of a non-financial option and makes its value visible to the users of financial statements.

We understand that the boards considered the practicality of measuring these options and decided tentatively in favour of the so-called 'looking-through-the-option approach' (for the reasons we refer to DP 3.32: difficulties to apply in practice; components are often interrelated; possibility to structure leases; fair value of options is difficult to measure; may not provide users with complete information about the economic position of the lease). We do not consider these (practical) reasons to be strong enough to outweigh the conceptual concerns mentioned above. Further, the approach as tentatively suggested by the boards would lead to the recognition of a liability although there is no 'present obligation' based on a 'past event', so that the liability would not be in line with current IFRS-principles. Only in rare circumstances we would agree to this approach: if the lessee was economically compelled to exercise the option - since factually there is no other economic alternative for the lessee.

We realise that because of our requirement to account for options as separate components of the lease contract, the lessee will be required to recognise and measure (at least at initial recognition) options to extend or terminate the lease on a fair value basis. We acknowledge that options of this type are difficult to measure reliably as they are rarely priced separately from the main lease contract. Therefore we propose the following two-step approach:

1) if the fair value of the options can be measured reliably, they need to be accounted for as separate components of the lease contract,

2) if the fair value of the options cannot be measured reliably, the boards may consider to provide alternative approaches (e.g. to provide detailed information in the notes to the financial statements with respect to existing options).

Considering these issues, we recommend to generally account for options separately and measure them based on their fair values.

Regarding the approach as suggested by the boards, we have some concerns about the factors to be considered in determining the lease term (please refer to para. 6.38 – 6.41 of the DP: contractual; non-contractual financial; business; lessee specific). According to the boards' views the lessee's intention and past practice (= lessee specific factors) shall not be included – as we do not consider this proposal to be practicable since there is no clear dividing line between the factors which should be considered and those which should not. If the boards intend to avoid misuse by proposing this approach, they should come up with specific principles to address the misuse issues.

Moreover, we also would like to bring forward the following concern: in case a lease contract with a term option is

a) either prolonged since the lessee exercises the option,
b) or the option will not be exercised and the original lease contract is considered to be ceased but a new, subsequent lease contract is entered into with identical features as agreed for the optional lease term,

the accounting treatment would be different for the two scenarios although in both instances the economic substance is the same. Therefore, criteria would need to be established to clarify different accounting treatments.

Chapter 7: Contingent rentals and residual value guarantees

Question to EFRAG's constituents We would particularly welcome views on this issue. Do you think the measurement of the lessee's obligation to pay rentals should include a probability-weighted estimate of contingent rentals payable or should be on the basis of the most likely rental payment?

For practicability reasons we prefer to measure contingent rentals on the basis of the most likely rental payment. We are aware that this proposal would not be in line with the current development of ED of Proposed Amendments to *IAS 37 Provisions Contingent Liabilities and Contingent Assets and IAS 19 Employee Benefits*. However, since the obligation to pay rentals is considered to be a financial liability, we consider this proposal to be acceptable.

Chapter 8: Presentation

Question to EFRAG's constituents

We would welcome your views as to whether describing a lease asset as an intangible asset is consistent with adopting a right-of-use approach.

We prefer to present the 'right-of-use' asset based on the nature of the underlying assets (including the components of a lease contract accounted for separately, as recommended by us) with further details to be provided in the notes to the financial statements.

We support this view mainly because users of financial statements are provided with information about the nature of the leased asset that could be lost if the 'right-of-use' asset is presented as an intangible asset. We understand that users are predominantly interested in the productive capacity of a business to assess the ability of the business to generate positive cash flows.