

**Discussion Document A – April 24, 2007 Joint Meeting of International Practices
Task Force (IPTF) and SEC Staff**

Topic:

Interim financial information issued by a foreign private issuer

Background:

The following is an extract from the highlights of the March 2001 Task Force meeting:

COMPARATIVES FOR RULE 3-19(F)

Background

Section VIII.A of the Division of Corporation Finance's International Financial Reporting and Disclosure Issues (published on the SEC website and dated July 21, 2000) states:

"3-19(f) information does not trigger a requirement to include full interim financial statements more recent than otherwise required by Rule 3-19. For example, if complete financial statements related to the most recent quarter (but not the comparative period) is distributed in a foreign issuer's home country, that information must be included in the US registration statement. Comparative prior period information is not required because the information provided is included only because of 3-19(f). In order to avoid confusing US readers the registrants should include disclosure explaining why this information is provided particularly when the information is placed with other financial statements and may look incomplete. If the information provided contains a reconciliation to GAAP, the staff believes that inclusion of reconciled information for the prior periods generally will also be necessary to prevent the current period information for being misleading."

It is understood the staff applies the last sentence of this excerpt to mean that if a US GAAP reconciliation is included in the information provided pursuant to Rule 3-19(f), then comparatives (both in local GAAP and including a US GAAP reconciliation) have to be provided.

Issue

1. What is the rationale for the staff's interpretation of Rule 3-19(f)?
2. Are there any circumstances where although the information provided pursuant to Rule 3-19(f) includes a US GAAP reconciliation the SEC staff will not require that comparatives be presented?
3. Does other information in the filing (e.g., selected financial data, MD&A pro forma information) also need to be updated?

Discussion

1. The SEC staff said that the basis for Rule 3-19(f) was to ensure a level playing field. It ensured that if more recent information than would otherwise be required by the age of financial statement rules has been made available to investors in one jurisdiction, then that information should be made available to all investors. Equally, if a domestic registrant presented more recent information than that required by Rule 3-01 it would be required to present comparatives. A foreign private issuer is not ordinarily required to provide US GAAP information in its home jurisdiction. Accordingly, when a foreign private issuer presents more current US GAAP information, it effectively has decided to present interim financial statements, and is also required to present comparatives as required by Item 8.A.5 of new Form 20.F.

The SEC staff also noted that in these circumstances the current and comparative interim period would need to be covered by MD&A and pro forma information would need to be updated to that date.

2. The SEC staff said that while they would consider a waiver in circumstances involving hardship, there were no general circumstances that would automatically result in a waiver.

Generally, registrants should proceed on the basis that the staff would not waive the requirement for comparatives.

Item III.C of the November 2004 International Issues Outline notes the following, in part:

...Inclusion of published information under Item 8.A.5 does not ordinarily trigger a requirement to include full interim financial statements more recent than otherwise required. For example, if **complete** financial statements related to the most recent quarter (but not the comparative period) are distributed in a foreign issuer's home country, that information must be included in the US registration statement. Comparative prior period information is not required because the information provided is included only because of Item 8.A.5. In order to avoid confusing US readers, the registrant should include disclosure explaining why the information is provided particularly when the information is placed with other financial statements and may look incomplete. [emphasis added]

However, if the information provided contains a reconciliation to US GAAP, the staff believes that inclusion of reconciled information for the comparative prior periods generally will also be necessary to prevent the current period information from being misleading. A foreign private issuer is not ordinarily required to provide US GAAP information in its home jurisdiction.

Accordingly, **when a foreign private issuer presents more current US GAAP information, it effectively has decided to present interim financial statements, and is also required to present comparatives as required by Item 8.A.5 of new Form 20F.** In these circumstances the current and comparative interim period would need to be covered by MD&A and pro forma information would need to be updated to that date. [Emphasis added]

Issue:

To what standard does the interim information issued by the registrant in its local jurisdiction need to be prepared for it to trigger the updating requirements?

Task Force Recommendation:

The Task Force believes that the relevant test should be based on a combination of whether the interim financial information released locally comprises a balance sheet, income statement, and a cash flow statement of sufficient detail and whether that information is reconciled to US GAAP. Consequently, the Task Force believes that the updating requirement is triggered if the interim financial information released locally includes a balance sheet, income statement, and a cash flow statement that meets or exceeds the requirements of Article 10 and such information is reconciled to US GAAP. A balance sheet, income statement, and cash flow statement prepared in accordance with IAS 34 would be considered to be in a format consistent with Article 10. For example, the Task Force noted that the publication of annual or interim summarized or capsule US GAAP information would not normally trigger the comparative or updating requirement.

SEC Staff Response:

The Staff agrees with the Task Force recommendation.