

June 2025

Financial Reporting Decision

Decision 3/2025



Issuer	Kingspan Group plc
Report type	Annual report and financial statements
Reporting period	Year ended 31 December 2023
Financial reporting framework	IFRS-EU
Applicable financial reporting standard	IAS 37 <i>Provisions, Contingent Liabilities and Contingent Assets</i>

Summary

This Decision concerns whether a contingent liability requires disclosure in the financial statements.

Background

The issuer is a manufacturer of insulated panels, rigid insulation boards, technical insulation, architectural facades, roofing and waterproofing solutions, data and flooring technology, daylighting and ventilation systems and water and energy solutions.

IAASA performed an interactive focused examination of the issuer's annual financial statements for the year ended 31 December 2023.

Outline of financial reporting treatment applied by the issuer

In November 2022, the European Commission (EC) opened an Article 14(1) of the EU Merger Regulation investigation to determine whether the issuer intentionally or negligently supplied incomplete, incorrect and/or misleading information during the EC's investigation of the issuer's proposed acquisition of Trimo, a Slovenian-based roofing and insulation materials manufacturer.

The issuer did not disclose in its annual financial reports for 2022 and 2023 that the EC had opened the Article 14(1) investigation.

On 19 March 2024 (i.e., subsequent to the approval and publication of the annual financial statements for 2023), the EC sent a Statement of Objections to the issuer. The Statement of Objections outlines the EC's preliminary findings and provides the issuer with the opportunity to comment before the EC finalises its position.

The issuer's rationale for not disclosing the Article 14(1) investigation as a contingent liability in its annual financial statements for 2022 and 2023 is summarised below:

- (a) when the EC initiated its Article 14(1) investigation in 2022, the issuer determined that this event did not give rise to a 'possible obligation', legal or constructive, on the basis that the issuer was of the view that it had complied fully with the Commission's requests supported by the issuer's independent legal advice, during the merger control proceedings and, therefore, had no reason to believe a possible obligation existed at that date or would subsequently arise from the Article 14(1) investigation,

- (b) during the Article 14(1) investigation process, the EC had cleared several other merger control proceedings by the issuer and had not raised any concerns with the issuer in relation to Article 14(1) infringements prior to issuing the Statement of Objections, and
- (c) even in a scenario where the initiation of the Article 14(1) investigation were to be considered a 'possible obligation' for the purposes of IAS 37, the issuer's assessment at that time was that the possibility of an outflow of resources embodying economic benefits was remote and, therefore, a contingent liability disclosure was not required.

In addition, the issuer considered the likelihood of a material fine being imposed as being remote and that disclosures were, therefore, not required in the annual financial statements for 2022 and 2023.

IAASA conclusion

Based on the facts and evidence available, IAASA concluded that:

- (a) a contingent liability existed since, at least, November 2022 when the European Commission notified the issuer of the Article 14(1) investigation, and
- (b) it cannot be definitively demonstrated that the possibility of an outflow in settlement of the contingent liability is other than remote.

In arriving at its conclusion, IAASA considered the number of Article 14(1) decisions on the EC's public register. The outcome of the small number of Article 14(1) decisions by the EC indicates that in a majority of those investigations a penalty was imposed by the EC. However, it is not known how many, if any, Article 14(1) investigations initiated did not result in a Statement of Objections. In addition, IAASA had no evidence as to whether or not any challenge to the EC's Statement of Objections by the issuer would be successful.

IAASA concluded that the small number of Article 14(1) investigation determinations by the EC does not provide sufficient support for the argument that the outcome of the investigation is other than remote.

Consequently, while IAASA believed that disclosure of the contingent liability from at least 2022 onwards would have been desirable from the perspective of the users of the issuer's annual financial statements [paragraph 31 of IAS 1 *Presentation of Financial Statements* is considered relevant in this regard], IAASA concluded that, on the facts and evidence available to it from the issuer and from the EC's public register of Article 14(1) decisions, there is not sufficient evidence to conclude that disclosure of the contingent liability is required by IAS 37.

Outline of corrective actions undertaken or to be undertaken

Following engagement with IAASA, the issuer provided a voluntary undertaking that future periodic financial reports will include additional statements in both the '*Acquisition and Integration of New Businesses*' and '*Laws and Regulations*' risks within the Risk and Risk Management Report to reference the regulatory and reputational risks associated within the issuer's merger and acquisition strategy.

The issuer confirmed that, following receipt of the EC's Statement of Objections in March 2024, it decided to disclose the Article 14(1) investigation as a contingent liability with effect from its half-yearly report for 2024.

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