

## Is there the practical ability to exercise?

Are there barriers to exercise of those rights by holder?

Examples:

- Financial penalties or incentives;
- Exercise/conversion prices that deter exercise/conversion;
- Terms and conditions that prevent exercise of rights (for example, conditions that narrowly limit timing of exercise);
- The lack of an explicit, reasonable mechanism through which holders can exercise their rights;
- Inability to obtain information needed to exercise rights;
- Operational barriers such as lack of expertise to replace existing management after gaining control; and
- Legal/regulatory requirements that prevent exercise.

Do practical mechanisms exist for collective exercise of rights?

- The more parties that need to agree, the less likely that the rights are substantive.
- Independent board of directors may provide the required mechanism.

Will the holder benefit from the exercise of those rights?

Potential voting rights are more likely to be substantive if:

- they are in the money; or
- the investor will benefit for other reasons from exercise (for example, realise synergies).

Yes

**Is the right exercisable when decisions about the direction of relevant activities need to be made (para 20)?**

Yes

**Substantive rights**