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Mr Robert Garnett
Chairman
International Financial Reporting Interpretations Committee
30 Cannon Street
London
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Email: ifric@iasb.org

14 April 2008

Dear Mr Garnett,

Tentative agenda decision: IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* – Deposits on returnable containers

Deloitte Touche Tohmatsu is pleased to respond to the IFRIC's publication in the March 2008 *IFRIC Update* of the tentative decision not to take onto the IFRIC's agenda a request for an Interpretation of IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* with respect to whether an obligation to refund deposits on returnable containers should be accounted for in accordance with IAS 39 *Financial Instruments: Recognition and Measurement.*

We support the IFRIC's decision not to take this item to the agenda. We concur with the assessment that the obligation is an exchange transaction of cash (the deposit) for the containers (non-financial asset) and therefore does not meet the definition of a financial instrument in accordance with IAS 32 *Financial Instruments: Presentation* and thus is not within the scope of IAS 39.

However, we believe that the wording of the tentative agenda decision should be amended to clarify the scenarios being addressed by the IFRIC. Suggested wording (marked up) is as follows:

> […]
>
> In circumstances in which the containers are sold to the customer together with the product, with a right of return, the containers are derecognised as part of the sale transaction~~, either completely at the time of the first sale or partially by depreciation over a number of sales,~~ the obligation is an exchange of cash (the deposit) for the containers (non-financial assets) […]
>
> In contrast, when the containers are not sold to the customer and the customer has the obligation to return the container, and the container remains the property of the entity that distributes the product, the container is not derecognised a part of the sale transaction, the customer's only asset is its right to the refund. In such circumstances, the obligation meets the definition of a financial instrument in accordance with IAS 32 and is therefore within the scope of IAS 39. […]

In addition, as noted in our November 2007 submission we also believe that to avoid any confusion, the IFRIC should add a positive statement to the agenda decision that IAS 37 *does* apply to the scenario where containers are sold to the customer together with the product, with a right of return. Further, we believe that the agenda decision should specify that it only applies to the specific fact pattern submitted to the IFRIC. We do not believe the agenda decision should be applied by analogy to other fact patterns.

If you have any questions concerning our comments, please contact Ken Wild in London at +44 (0)20 7007 0907.

Yours sincerely,

Ken Wild
Global IFRS Leader