

IFRS Foundation

30 Cannon Street
London EC4M 6XH | UK

Tel: +44 (0)20 7246 6410
Fax: +44 (0)20 7246 6411
info@ifrs.org

www.ifrs.org

This document is provided as a convenience to observers at IFRS Foundation meetings, to assist them in following the discussion.

INFORMATION FOR OBSERVERS

IFRS Foundation Trustees Meeting, Seoul 13 October 2010

AGENDA PAPER 8B**MEMORANDUM**

To: Due Process Oversight Committee

From: Alan Teixeira

Date: 20 September 2010

Re: *Update on the IAS 37 complaint
Liabilities - IFRS to replace IAS 37 Provisions, Contingent Liabilities and
Contingent Assets*

Following receipt of the letter of complaint from BusinessEurope, FEI and Nippon Keidanren in April 2010, the matter was discussed at the Trustees meeting in July. It was agreed that the IASB will consider the matter and will provide a full report back to the Trustees meeting in October.

The attached holding letter dated 9 July was sent to the complainants.

Reconsideration by the IASB

The Board discussed the IAS 37 project on Wednesday 15 September at a public meeting. This was the first time the project has been discussed in a public meeting since the Trustee's met in Washington.

The supporting paper submitted to the IASB for consideration

The supporting paper outlined three possible courses of action:

- (a) Take the project off the Board's agenda;
- (b) Issue a new IFRS without substantially altering the IAS 37 measurement requirements; or
- (c) Continue to develop an IFRS with an expected value measurement model, but withdraw the requirement for entities to measure service outflows at contractor prices and consider four other changes to address reliability and cost-benefit concerns.

The paper observed that comments received in relation to due process reflect similar concerns to those raised in the letter from BusinessEurope, FEI and Nippon Keidanren which was referred to the Trustees in July this year. The paper also noted that the Trustees' Due Process Oversight Committee has asked the Board to take those concerns into account when it considered the comments on the exposure draft and to report back to the Trustees on its conclusions.

The paper made it clear that the need for, and nature of, further due process on this project would depend on whether and how the Board decides to progress its proposals.

Outcome of the meeting on 15 September 2010

The IASB considered a summary of comments received on the exposure draft *Measurement of Liabilities in IAS 37*.

The comments reinforced those that the Board had received while interacting with respondents and other interested parties during the comment period. In particular, respondents argued that:

- the 'expected value' of a single liability (the probability-weighted average of the range of possible outflows) is a less relevant measure of the liability than the most likely outflows.
- entities cannot measure reliably the expected values of some liabilities within the scope of IAS 37 - in particular some liabilities arising in legal disputes.
- the reasons for adding a risk adjustment-and the way in which an entity would measure the adjustment-are unclear. As a consequence, measurements that include risk adjustments might not be reliable or comparable.
- contractor prices are not relevant measures of the entity's future outflows, and, in the absence of a market, cannot be estimated reliably.
- the recognition criteria are unclear and would be difficult to apply - especially in situations (such as legal disputes) in which there is uncertainty about whether a liability exists.
- the proposals would be difficult to apply in the US legal environment.
- overall, the proposals would not improve IAS 37, which some respondents think works well in practice.
- given the time that has elapsed since the 2005 exposure draft, and the relationship between the proposed measurement requirements and other sections of the draft IFRS, the Board should re-expose the entire IFRS.

The Board decided to continue its deliberations on this project to replace IAS 37 on the grounds that parts of that standard are causing diversity in practice and need amendment. The Board expressed a willingness to consider ways of addressing the matters raised by respondents and will continue to interact with respondents.

The staff presented a plan identifying specific suggestions for further consideration by the Board. The plan would involve:

- considering whether to introduce different requirements for liabilities whose expected values cannot be measured reliably. One approach might be to specify simplified measurement techniques. Another approach might be to specify that the liabilities

- considering adding more guidance to help entities decide whether they have a liability to recognise. One possible source for such guidance could be the staff paper *Recognising Liabilities arising from Lawsuits*, posted on the IASB's website in April 2010.
- reconsidering the requirement to identify the *lowest* of the fulfilment, transfer and cancellation prices.
- reconsidering the requirement to add a risk adjustment.
- reconsidering the requirement to measure future outflows by reference to contractor prices.
- considering whether to add more guidance on various other matters, such as discount rates (whether they should include non-performance risk), disclosure requirements, contingent assets and onerous contracts.

The Board also tentatively decided that, once it has reached decisions on the matters raised by respondents, any revised draft IFRS would be exposed in its entirety for further comment. The Board expressed a desire to avoid unnecessary delay, but noted that, because of other priorities and the need to give proper consideration to the matters raised by respondents, it may not be able to issue an exposure draft before the second half of 2011.