STAFF PAPER

IASB Meeting

Project	**Conceptual Framework**
Paper topic	Liability definition and supporting concepts—the ‘no practical ability to avoid’ criterion

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Paper overview

Purpose of paper

1. The Exposure Draft *Conceptual Framework for Financial Reporting* (the Exposure Draft) proposed that an entity has a present obligation to transfer an economic resource if two criteria are met:
   - (a) the entity has no practical ability to avoid the transfer; and
   - (b) the obligation has arisen from past events.
2. This paper considers feedback on the ‘no practical ability to avoid’ criterion. It should be read with Agenda Paper 10B *Liability definition and supporting concepts—background information.*

Content of paper

3. This paper:
   - (a) summarises the staff recommendations (paragraph 4);
   - (b) explains the Exposure Draft proposals (paragraphs 5–8);

(c) summarises the feedback from respondents (paragraphs 9–15);

(d) analyses the feedback (paragraphs 16–46); and

(e) sets out staff recommendations and questions for the Board (paragraphs 47–49).

Summary of staff recommendations

4. The staff recommend that:

   (a) as was proposed in the Exposure Draft, the concepts supporting the liability definition should include the criterion that the entity has 'no practical ability to avoid' transferring an economic resource.

   (b) the Board should refine the concepts on the meaning of 'no practical ability to avoid' proposed in paragraph 4.32 of the Exposure Draft. The refined concepts should state that, to conclude that an entity has no practical ability to avoid a transfer:

      (i) the factors considered would depend on the type of transaction under consideration. For example, for some types of transaction, an entity may have no practical ability to avoid a transfer if all avoiding actions would have economic consequences significantly more adverse than the transfer itself.

      (ii) it would never be sufficient that the management of the entity intends to make the transfer or that the transfer is probable.

   (c) the *Conceptual Framework* should contain no further concepts on the meaning of 'no practical ability to avoid' beyond those proposed in the Exposure Draft. Although more detailed requirements and guidance might be needed to apply the 'no practical ability to avoid' criterion, the requirements and guidance would depend on the type of transaction under consideration and so would be more appropriately developed if and when the Board is developing an IFRS Standard for that type of transaction.

Exposure Draft proposals

5. Paragraph 4.31 of the Exposure Draft proposed that an entity has a present obligation to transfer an economic resource if two criteria are met:
   (a) the entity has no practical ability to avoid the transfer; and
   (b) the obligation has arisen from past events.

6. The Board proposed the 'no practical ability to avoid' criterion instead of either of two alternative approaches, both considered when it was developing the Exposure Draft, that would have defined a liability:
   (a) more *narrowly*—by restricting the term 'present obligation' to legally enforceable, unconditional obligations; or
   (b) more *broadly*—to include all possible future transfers resulting from past events (even those that the entity might have the practical ability to avoid). Applying this approach, the probability of a transfer would be taken into consideration in deciding whether to recognise the liability and, if so, how to measure it.

7. In developing its proposals, the Board took the view that including the 'no practical ability to avoid' criterion in the definition of a present obligation would lead to the most faithful representation of the obligations that an entity cannot avoid. The Board rejected the narrower definition on the grounds that, if financial statements identify as liabilities only legally enforceable, unconditional obligations, they could omit information that many users find useful. The Board rejected the broader definition for the following reason: the term 'obligation' implies that there must be some limit on the entity's ability to avoid the transfer of an economic resource.[1]

8. The Basis for Conclusions also stated that the proposed description of a present obligation would help to resolve questions about whether 'economic compulsion' is sufficient to create a liability:

[1] Paragraph BC4.61 of the Basis for Conclusions accompanying the Exposure Draft.

BC4.75 The IASB thinks that [the two criteria specified in the description of a present obligation] make it clear that:

(a) economic compulsion may be a factor that reduces the entity's practical ability to avoid a future transfer—so it would need to be considered in assessing whether that criterion is met; but

(b) economic compulsion on its own cannot create a present obligation—there is also the requirement for the obligation to have arisen from a past event (receiving economic benefits, or conducting activities, that establish the extent of the entity's obligation).

Feedback from respondents

9. Many respondents commented on the proposed description of a present obligation and supporting concepts. Of those who expressed an overall view, many generally agreed with the proposed description. Those generally agreeing included:

   (a) most of the users of financial statements, regulators, standard-setters, accounting firms, and accountancy bodies; and

   (b) most of the preparers of financial statements, *except* banks and organisations representing banks. Most of the (predominantly European) banks and organisations representing banks disagreed with the proposals.

10. Banks expressed concerns about the implications of the term 'no practical ability to avoid' in identifying liabilities. They tended to refer, in particular, to the implications for classifying financial instruments as liabilities or as equity claims. Some expressed particular concern about the role that economic compulsion could play, for example in classifying financial instruments with a right of termination for the issuer, or with step-up clauses. Others referred in particular to the possibility of a change in the classification of the shares of co-operative entities.

11. In contrast to the banks, the Basel Committee on Banking Supervision argued in favour of economic compulsion playing a role in classification decisions. While acknowledging the risks that would arise if the door were opened inappropriately to

classification on the basis of economic compulsion, it expressed concern that an inability to take economic compulsion into account can result in very different accounting for financial instruments that will have the same economic consequences for the issuer.

12. Others who disagreed with the proposed description of a present obligation gave a variety of reasons, and suggestions for alternatives:

    (a) a few academics and individuals argued for a definition more like the *narrower* definition that the Board had considered. They would restrict the description to legally enforceable obligations, which would be consistent with the conclusions reached by the IFRS Interpretations Committee in IFRIC 21 *Levies*.

    (b) a few respondents argued for a definition more like the *broader* definition that the Board had considered:

        (i) a user of financial statements (Blackrock) suggested that the definition of a liability should include all obligations that arise from past events and will *probably* result in an outflow of economic resources. That user argued that the guidance explaining the meaning of 'no practical ability to avoid' is too restrictive: the statement that 'any action necessary to avoid the transfer … would have economic consequences significantly more adverse than the transfer itself' is a high hurdle, which could result in liabilities not being recognised in a timely manner.

        (ii) an academic organisation (European Accounting Association) suggested that, at a conceptual level, the definition of a liability should include *all* obligations that arise from past events. It suggested that the Board could include pragmatic restrictions within IFRS Standards to prevent preparers from having to identify obligations that were unlikely to result in a future outflow, many of which would be measured at nil.

    (c) a European accountancy body (ICAEW) also favoured a broader definition of a liability. But, rather than try to broaden the description of a *present obligation*, that accountancy body would define a liability to include both present obligations (legal and constructive) and 'certain other planned future outflows

arising from past events'. The body stated that the latter category would cover expenses such as levies, bonuses and some pension costs that are incurred in earning the income of the accounting period, but that do not necessarily give rise to what can be regarded as a present obligation, in the ordinary sense of these words, at the reporting date.

(d) some standard-setters and preparers of financial statements (from diverse geographical locations) argued that the term 'no practical ability to avoid' could be unworkable—in their view, it is not sufficiently clear and so could result in misinterpretations, subjective interpretations, diversity in practices, or unwelcome outcomes.

13. A few respondents suggested that, if the objective of the new guidance is to resolve problems with levies, that objective could be achieved more easily, and without risking wider unintended consequences, by amending IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*.

14. Even among respondents who broadly agreed with the proposed description, or expressed no overall view, there were some—from all regions and including users and preparers of financial statements, regulators, standard-setters, accountancy bodies and accounting firms—who expressed concerns about difficulties in interpreting the term 'no practical ability to avoid'. Respondents suggested that:

(a) it will involve substantial subjectivity, particularly in assessing whether 'any action necessary to avoid the transfer would cause significant business disruption or would have economic consequences significantly more adverse than the transfer itself'. Distinguishing transfers that an entity has no practical ability to avoid from others that are likely to be economically advantageous will be difficult. There is a scale of possibilities, not a clear cut-off point, assessments could change over time, and different stakeholders could make different assessments. The subjectivity could lead to selective interpretation by preparers of financial statements.

(b) more guidance is needed. Some respondents acknowledged that transaction-specific guidance could be included in individual IFRS Standards. However, others appeared to think that the guidance should be in the *Conceptual Framework*. One accounting firm explicitly stated that the development of further guidance should *not* be deferred to individual Standards.

(c) the guidance should explain the role of economic compulsion, and how the words 'significant' and 'significantly' should be interpreted. A few respondents suggested moving the discussion of economic compulsion from the Basis for Conclusions to the body of the *Conceptual Framework*.

15. Although many respondents suggested that *more* guidance is needed in the *Conceptual Framework*, a few respondents suggested that there should be *less* guidance—the *Conceptual Framework* should set out the high-level concepts only. Those respondents specifically suggested removing paragraphs 4.32 and 4.33, which interpret the term 'no practical ability to avoid'.

Staff analysis and conclusions

16. The feedback raises questions about six aspects of the proposals:

(a) the proposal to address transfers that could be avoided through the entity's future actions (paragraphs 17–21);

(b) alternative conceptual approaches (paragraphs 22–24);

(c) whether a 'no practical ability to avoid' criterion is workable (paragraphs 25–28);

(d) the proposed interpretation of 'no practical ability to avoid' (paragraphs 29–38);

(e) the sufficiency of the proposed guidance (paragraphs 39–41); and

(f) terminology (paragraphs 42–46).

The proposal to address transfers that could be avoided through the entity's future actions

17. Identifying when a liability arises has been a recurring problem for the Board in developing IFRS Standards, and for the IFRS Interpretations Committee and others in interpreting those Standards. Problems arise if:
    (a) as a result of past events, an entity may have to transfer an economic resource to another party in future; but
    (b) the entity has some ability (at least in theory) to avoid the future transfer through its future actions.

18. IFRS Standards and IFRIC® Interpretations apply different concepts. IAS 37, especially as it has been interpreted in IFRIC 21, applies a concept that an entity does not have a present obligation if an entity could take any actions to avoid the transfer—irrespective of whether the avoiding actions are realistic.[2] In contrast, other Standards, such as IAS 34 *Interim Financial Reporting* and IAS 19 *Employee Benefits* apply a concept that any avoiding actions must be 'realistic alternatives'.[3]

19. Most respondents either explicitly or implicitly expressed support for developing concepts to address transfers that could be avoided through the entity's future actions. Only a few respondents disagreed, suggesting that the problems with IAS 37 highlighted in the Exposure Draft could instead be remedied by amending that Standard (paragraph 13).

20. The problems with IAS 37 could be remedied by amending that Standard, using the concepts developed in this project. However, this issue affects a wide range of transactions, not only transactions within the scope of IAS 37, and developing concepts to address the issue has been one of the main aims of the Conceptual Framework project. Including concepts in the *Conceptual Framework* will help the

[2] See July 2015 IASB meeting, Agenda Paper 14C IAS 37 *Research—Implications of Conceptual Framework proposals*, Section 1.

[3] See paragraph BC4.54 of the Basis for Conclusions accompanying the Exposure Draft for examples.

Board reach decisions in other projects—such as the pipeline research projects on pollutant pricing mechanisms and variable and contingent consideration—and help to promote consistency between IFRS Standards.

21. Consequently, the staff conclude that, as proposed in the Exposure Draft, the revised *Conceptual Framework* should include concepts to address transfers that could be avoided through the entity's future actions.

Alternative conceptual approaches

22. In developing concepts to address such transfers, the Board considered alternatives to the concept of 'no practical ability to avoid'. The alternative concepts, which are described in paragraph 6, would define a liability either more narrowly or more broadly. The Board's proposal to draw the line at 'no practical ability to avoid' was generally supported by respondents: few respondents advocated concepts that would define a liability either more narrowly or more broadly.

23. Although most of the banks responding expressed concerns about the 'no practical ability to avoid' criterion:

    (a) they were primarily concerned about the implications of the 'no practical ability to avoid' criterion for classification of financial instruments as liabilities or as equity claims. However, the Board is addressing financial instrument classification in a separate project on Financial Instruments with Characteristics of Equity and has decided that the concepts in the revised *Conceptual Framework* will not necessarily limit the range of possibilities explored in that project.

    (b) the banks' comments indicate that they were possibly more concerned about how the Exposure Draft proposed to interpret the concept of 'no practical ability to avoid', rather than with the concept itself. Concerns about the proposed interpretation of the concept are discussed further in paragraphs 29–38.

24. The staff conclude that the feedback on the Exposure Draft does not indicate a need to replace the ‘no practical ability to avoid’ criterion with a conceptually different approach.

Whether a ‘no practical ability to avoid’ criterion is workable

25. Some respondents opposed the ‘no practical ability to avoid’ criterion on the grounds that it could be unworkable (paragraph 12(d)). Even among respondents who broadly agreed with the criterion, or who expressed no overall view, some expressed concerns that the criterion would be difficult to interpret and subjective (paragraph 14(a)). Some noted that there is a scale of possibilities, not a clear cut-off point, assessments could change over time, and different stakeholders could make different assessments.

26. However, preparers of financial statements would rarely be required to apply a ‘no practical ability to avoid’ criterion without further requirements and guidance. The Board would apply the criterion when it is developing IFRS Standards for particular transactions. And it could specify requirements and provide additional guidance to reduce the subjectivity involved in identifying liabilities for those transactions. For example:

    (a) if the Board were to develop requirements for constructive obligations (ie obligations created by an entity’s customary practices, published policies or statements, rather than by an operation of law), it could, if appropriate[4]:

        (i) require preparers of financial statements to assess whether the entity has the practical ability to act in a manner inconsistent with a particular policy, practice or statement.

        (ii) specify factors to consider in reaching that assessment. Such factors might include, for example, the severity of the economic costs of any

[4] The staff have used the phrase ‘if appropriate’ because it is beyond the scope of this project to identify the most appropriate conclusion for particular transactions. The staff are not forecasting the decisions the Board might take if it were to consider the transactions mentioned, and have provided possible conclusions for illustration only.

reputational or relationship damage that would result from changing the policy or practice, or withdrawing the statement.

(iii) identify the extent of the entity's past adherence to its policy, practice or statement as one source of evidence to support its assessment.

(See Example 2.2—*Contaminated land constructive obligation* in Agenda Paper 10F *Testing the proposed asset and liability definitions—illustrative examples*)

(b) if the Board were to develop new requirements for restructuring costs, it could, if appropriate, specify that the announcement or implementation of a detailed restructuring plan would be evidence that an entity has no practical ability to avoid those costs. (See Example 2.6(a)—*Restructuring costs—employee termination benefits* in Agenda Paper 10F.)

(c) if the Board were to develop requirements for contracts that include an option for the reporting entity not to transfer an economic resource, it could, if appropriate:

(i) specify that an entity should disregard the effect of an option in a scenario in which the entity has no practical ability to exercise that option.

(ii) specify that an entity should disregard options that have no commercial substance. Paragraph 4.55 of the Exposure Draft proposed that a contractual term has no commercial substance if it has no discernible effect on the economics of the contract.

(iii) identify possible indicators that an option has no commercial substance or no discernible effect on the economics of a contract. For example, one indicator might be that the option would not be economically advantageous in any circumstances. For transactions with observable prices, another indicator might be that the pricing of the contract with the option is not discernibly different from the pricing of equivalent contracts without the option.

27. For some types of transaction, it might be appropriate to develop requirements applying a presumption that an entity that prepares financial statements on a going concern basis does not have the practical ability to avoid particular transfers if the action needed to avoid the transfers would be incompatible with remaining a going concern. Such transactions could, if appropriate, include those in which a transfer could be avoided only by:

    (a) terminating the employment of *all* of a large group of employees before the vesting date for a particular type of employee benefit (see Example 2.4—*Long service leave* in Agenda Paper 10F); or

    (b) withdrawing from a particular market before the end of the year (see Examples 2.5(a)–(c)—*Levies* in Agenda Paper 10F).

    In these circumstances, the starting point for developing the requirements could be a presumption that the 'no practical ability to avoid' criterion is fulfilled and that consequently, a liability arises when (or starts to accumulate as) the 'past event' criterion is satisfied.

28. The staff conclude that the Board could use a 'no practical ability to avoid' criterion to develop workable requirements and guidance for particular Standards: the requirements do not need to be unduly subjective or difficult to implement.

The proposed interpretation of 'no practical ability to avoid'

29. Some of the concerns expressed by respondents related to an interpretation of 'no practical ability to avoid' proposed in paragraph 4.32 of the Exposure Draft:

    > 4.32 An entity has no practical ability to avoid a transfer if, for example, the transfer is legally enforceable, or any action necessary to avoid the transfer would cause significant business disruption or would have economic consequences significantly more adverse than the transfer itself. It is not sufficient that the management of the entity intends to make the transfer or that the transfer is probable.

30. Among the banks opposing the proposals, several focused on this paragraph and the statement in paragraph BC4.75(a) of the Basis for Conclusions that 'economic compulsion may be a factor that reduces the entity's practical ability to avoid a future transfer' (paragraph 8). They disagreed that economic considerations should necessarily be the determining factor in decisions about classification of financial instruments.

31. Other respondents also suggested that there could be particular difficulties in judging whether an action to avoid a transfer 'would have economic consequences significantly more adverse than the transfer itself'—especially if the consequences were unpredictable and assessments were likely to change over time.

32. A few respondents suggested omitting paragraph 4.32 of the Exposure Draft from the revised *Conceptual Framework*.

33. On reflection, and in the light of these comments, the staff think that the *Conceptual Framework* should not state that the entity's practical ability to avoid a transfer would necessarily be determined by considering the economic consequences of actions to avoid the transfer. We still believe that, in some scenarios, the economic consequences of taking an action to avoid a transfer may be so adverse that an entity has no practical ability to take that action in those scenarios. However, as illustrated in paragraphs 26 and 27, we also think that the factors used to assess whether an entity has the practical ability to avoid a particular transfer should depend on the type of transaction under consideration. Assessing the economic consequences of avoiding actions may not always be an appropriate and workable basis for judging whether an entity has the practical ability to avoid a future transfer, especially if the economic consequences of the transfer or the avoiding action (or both) are prone to price fluctuations. In such circumstances, the economic consequences of a future transfer or avoiding action would be unpredictable and an avoiding course of action could swing from being economically adverse to economically favourable over time.

34. To address this matter, the Board could either omit paragraph 4.32 of the Exposure Draft from the revised *Conceptual Framework*, or refine the wording of that paragraph

and paragraph 4.34 of the Exposure Draft. Refinements could be made along the following lines:

> This illustration also suggests changing the order of paragraphs 4.32 and 4.34. The purpose would be to discuss the more straightforward obligations (unconditional, legally enforceable obligations) before the more unusual and complicated cases.

4.34 An obligation compels an entity to do something. Obligations can arise in various ways. Many obligations are legally enforceable as a consequence of a contract, legislation or similar means. Obligations can also arise, however, from an entity's customary practices, published policies or specific statements if ~~that require the transfer of an economic resource. If~~ the entity has no practical ability to act in a manner inconsistent with those practices, policies or statements~~, the entity has an obligation~~. The obligation that arises in such situations is often described as a constructive obligation.

> If an entity has a legally enforceable obligation, there is no need to consider other factors. So the reference to legal enforceability would no longer fit within paragraph 4.32. However, legal enforceability is discussed in paragraph 4.34.

4.32 The factors used to assess whether an entity has the practical ability to avoid a transfer may depend on the type of transaction under consideration. For some types of transaction, an ~~An~~ entity may have ~~has~~ no practical ability to avoid a transfer if~~, for example, the transaction is legally enforceable or,~~ any action ~~necessary~~ that it could take to avoid the transfer would cause significant business disruption or would have economic consequences significantly more adverse than the transfer itself. To conclude that an entity has no practical ability to avoid a transfer, it would never be ~~It is not~~ sufficient that the management of the entity intends to make the transfer or that the transfer is probable.

35. In favour of *omitting* paragraph 4.32, it could be argued that the *Conceptual Framework* should contain only concepts. If a particular concept could be interpreted in different ways for different transactions, the appropriate place for any interpretations would be within the applicable IFRS Standards.

36. However, paragraph 4.32 clarifies how significant adverse economic consequences could remove an entity's practical ability to take action to avoid a transfer. In favour of *refining* paragraph 4.32 and 4.34, it could be argued that clarifying this point would help guide the Board in developing IFRS Standards, and help others in interpreting IFRS Standards. This might also put an end to long-standing debates about whether, and if so how, economic compulsion should play a role in identifying liabilities.

Paragraph 4.32 helps to explain how significant economic consequences of an action might affect the assessment of whether an entity has the practical ability to take that action. For some cases, it might be sufficient that any action necessary to avoid the transfer would have economic consequences significantly more adverse than the transfer itself. But in no cases would it be sufficient that management intends to make the transfer, or that the probability of a transfer reaches any specified level. The important question is whether the entity already has an unavoidable obligation to transfer an economic resource. This last sentence in paragraph 4.32 is particularly important to distinguish the 'no practical ability to avoid' criterion from a probability threshold—the existence of a liability does not depend on the probability of a future transfer.

37. In July 2016, the staff discussed with the Accounting Standards Advisory Forum (ASAF) possible refinements to the liability concepts. Those refinements included refinements to paragraph 4.32 to avoid implying that 'no practical ability to avoid' would necessarily be assessed by considering the economic consequences of actions necessary to avoid the transfer. A few ASAF members expressed support for the refinement; no ASAF members expressed disagreement.

38. For the reasons in paragraph 36, the staff conclude that the Board should refine, rather than omit, paragraph 4.32.

The sufficiency of the proposed guidance

39. Some respondents requested more guidance in the *Conceptual Framework* than was proposed in the Exposure Draft to interpret the phrase 'no practical ability to avoid'. A few respondents specifically suggested that the guidance should explain the role of economic compulsion (by incorporating some of the discussion from the Basis for Conclusions), or how the words 'significant' and 'significantly' should be interpreted.

40. In paragraphs 26 and 27, the staff illustrate various possible requirements that could result from applying a 'no practical ability to avoid' criterion. Those examples illustrate that, in a range of cases, the underlying driver for identifying a liability may be that actions required to avoid the transfer would have significantly more adverse

economic consequences than the transfer itself. But beyond that, the requirements and guidance would depend on the type of transaction under consideration. So the staff conclude that any further guidance should be developed when the Board is developing IFRS Standards for particular transactions, not in the *Conceptual Framework*.

41. The staff think the Board should not incorporate into the *Conceptual Framework* the discussion of 'economic compulsion' that was in the Basis for Conclusions accompanying the Exposure Draft. The *Conceptual Framework* would have to explain the label 'economic compulsion', and the staff think that paragraph 4.32 of the Exposure Draft (both in its original form and as refined below paragraph 34) clearly explains how economic factors could affect the application of the 'no practical ability to avoid' criterion, without the 'economic compulsion' label.

Terminology

42. A few respondents noted that the meaning of 'no practical ability to avoid' is essentially the same as that of 'no realistic alternative to settling' (which is used in IAS 37) or 'little, if any, discretion to avoid' (which is used in the existing *Conceptual Framework*). Those respondents suggested that the requirements could be clearer and less subjective if the *Conceptual Framework* used one of these 'more established' phrases.

43. The Basis for Conclusions accompanying the Exposure Draft noted that the Board had considered these alternative terms when it developed the Exposure Draft. The Basis for Conclusions further explained that the Board had taken the view that all three terms have a similar meaning, and that the Board had proposed the term 'no practical ability to avoid' because:

    (a) it took the view that this term most effectively conveys the need to identify what the entity is able to do, instead of what the probable outcome will be; and

(b) the term 'no practical ability to avoid' mirrors the term 'practical ability', which is applied in some existing IFRS Standards in assessing whether an entity has control of an asset.[5]

44. Existing Standards that use the term 'practical ability' include:

(a) IFRS 9 *Financial Instruments,* which states that an entity has not retained control of a transferred asset if the transferee has the practical ability to sell the asset.[6]

(b) IFRS 10 *Consolidated Financial Statements*, which states that, in determining whether an entity's rights give it power (one element of control) over an investee, the entity considers whether it has the practical ability to direct the relative activities unilaterally. It considers rights that it has the practical ability to exercise.[7] Application guidance in IFRS 10 refers to economic barriers.[8]

45. The phrases 'no realistic alternative' and 'little or no discretion to avoid' are both used in (typically older) IFRS literature for the purpose of identifying liabilities. For this reason, it could be argued that these two phrases are more established for that purpose. However, the staff think they are no less subjective than 'no practical ability to avoid'. Few respondents suggested that the *Conceptual Framework* should use either of these phrases, and none of those respondents put forward new arguments for doing so. Moreover, changing the proposed terminology at this stage could have unintended consequences.

46. Consequently, the staff conclude that the revised *Conceptual Framework* should use the same terminology as was proposed in the Exposure Draft.

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[5] Basis for Conclusions, paragraphs BC4.70–BC4.72.

[6] IFRS 9, paragraph 3.2.9

[7] IFRS 10, paragraphs B18 and B22

[8] IFRS 10, paragraph B23.

Staff recommendations and questions for the Board

47. For the reasons set out in paragraphs 17–20 (there is a need to address transfers that could be avoided through the entity's future actions), paragraphs 22–23 (few respondents advocated narrower or broader definitions), paragraphs 25–27 (the 'no practical ability to avoid' criterion is workable) and 43–45 (there is no compelling reason to change the terminology), the staff recommend that, as was proposed in the Exposure Draft, the concepts supporting the liability definition should include the criterion that the entity has 'no practical ability to avoid' transferring an economic resource.

Question 1—concept of 'no practical ability to avoid'
Do you agree with the staff recommendation in paragraph 47?

48. For the reasons set out in paragraphs 33 and 36, the staff recommend that the Board should refine the concepts on the meaning of 'no practical ability to avoid' proposed in paragraph 4.32 of the Exposure Draft. The refined concepts should state that, to conclude that an entity has no practical ability to avoid a transfer:
    (a) the factors considered would depend on the type of transaction under consideration. For example, for some types of transaction, an entity may have no practical ability to avoid a transfer if all avoiding actions would have economic consequences significantly more adverse than the transfer itself.
    (b) it would never be sufficient that the management of the entity intends to make the transfer or that the transfer is probable.

Question 2—proposed guidance on meaning of 'no practical ability to avoid'
Do you agree with the staff recommendation in paragraph 48?

49. For the reasons set out in paragraphs 40–41, the staff recommend that the *Conceptual Framework* should contain no further concepts on the meaning of ‘no practical ability to avoid’ beyond those proposed in the Exposure Draft. Although, more detailed requirements and guidance might be needed to apply the ‘no practical ability to avoid’ criterion, the requirements and guidance would depend on the type of transaction under consideration and so would be more appropriately developed if and when the Board is developing an IFRS Standard for that type of transaction.

Question 3—additional guidance
Do you agree with the staff recommendation in paragraph 49?