



© DRSC e.V. || Zimmerstr. 30 || 10969 Berlin || Tel.: (030) 20 64 12 - 0 || Fax.: (030) 20 64 12 -15
www.drsc.de - info@drsc.de

Diese Sitzungsunterlage wird der Öffentlichkeit für die DSR-Sitzung zur Verfügung gestellt, so dass dem Verlauf der Sitzung gefolgt werden kann. Die Unterlage gibt keine offiziellen Standpunkte des DSR wieder. Die Standpunkte des DSR werden in den Deutschen Rechnungslegungs Standards sowie in seinen Stellungnahmen (Comment Letters) ausgeführt.
Diese Unterlage wurde von einem Mitarbeiter des DRSC für die DSR-Sitzung erstellt.

DSR – öffentliche SITZUNGSUNTERLAGE

DSR-Sitzung:	142. / 26.03.2009 / 14:45 – 16:45 Uhr
TOP:	10 – ED amend IAS 37
Thema:	Vorbereitung der Stellungnahme (Entwurf der Stellungnahme)
Papier:	142_10a_ED amend IAS 37_Entwurf_SN



DRSC e. V. • Zimmerstr. 30 • 10969 Berlin

Sir David Tweedie
Chairman of the
International Accounting Standards Board
30 Cannon Street

London EC4M 6XH
United Kingdom

Telefon +49 (0)30 206412-12
Telefax +49 (0)30 206412-15
E-Mail info@drsc.de

Berlin, XX. April 2010

Dear David,

Exposure Draft ED/2010/1 Measurement of Liabilities in IAS 37

On behalf of the German Accounting Standards Board (GASB) I am writing to comment on the IASB Exposure Draft ED/2010/1 Measurement of Liabilities in IAS 37 (herein referred to as 'ED'). We appreciate the opportunity to comment on the Exposure Draft.

In our view a final assessment of the proposed measurement approach is only possible if the scope is sufficiently clear. We are not sure in which way warranties and guarantees shall be treated in the near future. In its Discussion Paper on revenue recognition, the IASB proposed that warranties and guarantees shall be within the scope of IAS 18 in the future. A look at the IASB work plan shows that the final standards on liabilities and revenue recognition will be published at different times. Accordingly, the effective dates of both standards shall also be different. Hence, it is questionable how entities should account for warranties and guarantees in the meantime. If warranties and guarantees are to be within the scope of liabilities in IFRS, the GASB would assess the inclusion of a risk adjustment differently (see our detailed comment in the Appendix).

Hinweis für den DSR

Der letzte Satz des obigen Absatzes wurde aufgrund der Diskussionen bei der öffentlichen Diskussion aufgenommen (vgl. Sitzungsunterlage 142_10b)). Siehe zudem Frage 2 an den DSR unten.

The GASB disagrees with the proposed measurement approach. It seems to us that the IASB would like to introduce a measurement approach that is similar to a notion of fair value. This would especially be obvious in the description of how fulfilment value is to be determined in Appendix B of the ED, because the entity should use observable market prices even if it intends to fulfil the obligation by itself.

In our opinion the measurement objective should reflect the way an entity would like to satisfy the obligation (management approach) and not the lowest amount of the three



variants mentioned in paragraph 36B of the ED. Normally, entities fulfil their obligations by themselves. Hence, this item should also be included in the measurement objective. In some cases the entity has the intent and the possibility of cancelling or transferring the liability. Then a valuation at the time of cancellation or the transfer value may be appropriate. In contrast to the Board, we have a different understanding of how a fulfilment value should be determined. Our fulfilment value approach would be based on expected costs, so in contrast to the Board, we would prefer a cost notion and not a value notion. A profit margin would not be included in our approach. In principle, we would not take a risk adjustment into account.

We support the application of the expected value approach for large populations, but we would prefer the individual most likely outcome approach for single obligations.

Please find our detailed comments on the questions raised in the ED in the Appendix to this letter. If you would like to discuss our comments further, please do not hesitate to contact me.

Yours sincerely,

Liesel Knorr

President

Appendix – Answers to the questions of the exposure draft

Question 1

The proposed measurement requirements are set out in paragraphs 36A–36F. Paragraphs BC2–BC11 of the Basis for Conclusions explain the Board's reasons for these proposals.

Do you support the requirements proposed in paragraphs 36A–36F? If not, with which paragraphs do you disagree, and why?

We reviewed paragraphs 36A-36F in connection with the determination of the fulfilment value in Appendix B of the ED. We are of the opinion that especially the explanations in paragraph B8 of Appendix B would result in the IASB implementing a measurement approach that is similar to a fair value notion (see Question 2 for detailed comment).

We would prefer a measurement approach which would consider the way an entity would like to satisfy the obligation (management approach) and not the lowest amount of the three variants mentioned in paragraph 36B of the ED. This principle should be included in the measurement objective.

In our view entities normally fulfil their obligations by themselves. Hence, this item should also be included in the measurement objective. In some cases the entity has the intent and the possibility of cancelling or transferring the liability. Then a valuation at cancellation or transfer value may be appropriate. Thereby the entity has the burden of proof that it could cancel or transfer the liability. In our opinion the wording in paragraph 36C of the ED is unclear. We are not sure who has the burden of proof.

Question 2

Some obligations within the scope of IAS 37 will be fulfilled by undertaking a service at a future date. Paragraph B8 of Appendix B specifies how entities should measure the future outflows required to fulfil such obligations. It proposes that the relevant outflows are the amounts that the entity would rationally pay a contractor at the future date to undertake the service on its behalf. Paragraphs BC19–BC22 of the Basis for Conclusions explain the Board's rationale for this proposal.

Do you support the proposal in paragraph B8? If not, why not?

Expected value approach

The ED considers an expected value approach as an appropriate basis for measuring both liabilities for large populations and single obligations. The GASB supports the



application of the expected value approach for large populations. But for single obligations it would prefer the individual most likely outcome.

We doubt that a reliable measurement of single obligations based on the expected value approach will be possible on a regular basis whenever low probabilities are involved. An example to illustrate this is: an entity defending a lawsuit it is highly unlikely to lose. Since the maximum amount the entity may have to pay in the worst case may be immense, the unconditional obligation of recognition may materially affect the financial position of the entity even if an adverse outcome is highly unlikely. With low probabilities, determining the probability to be 6% instead of 2% would increase the liability to be recognised by a factor of 3. We doubt that it would be possible to obtain any reliable evidence that would show the probability of losing a lawsuit to be 6% instead of 2%.

Hinweis für den DSR

Das Beispiel wurde aus der Stellungnahme zum ursprünglichen ED/2005/Juni übernommen.

In our view the measurement should give decision-useful information to the users about the future outflows. Hence, we believe that the individual most likely outcome is an appropriate method for reaching this aim.

Obligation fulfilled by undertaking a service

It seems to us that the IASB would like to introduce a measurement approach that is similar to a fair value notion. This is especially obvious in the description of how to determine the fulfilment value in Appendix B of the ED, because the entity should use observable market prices although it intends to fulfil the obligation by itself.

The Board asserts in paragraph BC 21(a) of the ED that there is a market for most types of services. The GASB disagrees with this view. For example, you cannot bring a Rolls Royce to a Toyota garage for technical service, because Toyota does not have the technical equipment to perform the technical service. The driver of the Rolls Royce is bound to the Rolls Royce garage. We support the statement of the six dissenting IASB members in paragraph AV2(c) of the ED that there is no guidance about what constitutes a market and whether a referenced market should be a liquid market with observable market prices.

In our approach we do not distinguish between service and cash obligations. Our fulfilment value approach would be based on the expected costs needed to fulfil the obligation. This also includes cases in which an entity engages a subcontractor. Then the price the contractor would charge would also be a part of the valuation of the liability.



Frage 1 an den DSR

Der DSR hat bisher nicht den Fall diskutiert, in dem das Unternehmen ein anderes Unternehmen mit der Erbringung einer Teilleistung beauftragt.

Soll dieser Punkt in die Stellungnahme aufgenommen werden?

The GASB disagrees with the inclusion of profit margin. This profit margin cannot be revenue because there is no transaction with a third party. The inclusion would distort the period results. For example, in period one an entity books a liability of 1,100 CU with a profit margin of 100 CU. In profit and loss the profit margin would be presented as an expense. The liability would be fulfilled in five years. After five years the entity would book a gain of 100 CU in profit and loss because of the profit margin being released. This approach, in our view, results in an inadequate presentation. Furthermore, in our opinion the valuation of profit margin is very subjective.

Future events

Paragraph B12 and paragraph B13 of Appendix B both describe how future events should be taken into account. The example in paragraph B13 – change in legislation – confused us a little bit. For example, an entity is the owner of a gravel pit. The law changes. The entity is compelled to fill up the gravel pit. The law is substantively enacted and will be effective in five years. In our view this change in law should be included in the measurement of the liability. Modification of the example: in addition, the entity is compelled to build a children's playground in five years. We would also include this aspect in the measurement of the liability. In our view the IASB should clarify which changes in legislation should not be taken into account.

Risk adjustment

In principle, we would not take a risk adjustment into account, but at our public discussion one participant explained the current practice in his entity. This entity is currently only considering a risk adjustment in measuring warranties. In our view it is appropriate to consider a risk adjustment in this case. Therefore, it is very important to define the scope clearly.

Frage 2 an den DSR

Dieser Punkt wurde bisher nicht vom DSR diskutiert. Soll dieser Punkt in die Stellungnahme aufgenommen werden?

Estimating the expected present value involves all possible outcomes. In our opinion possible risks are reflected in these outcomes, so that no further risk adjustment is needed. To ensure equal treatment for single obligations, to which we would apply the individual most likely outcome approach, we would also not require a risk adjustment.

**Frage 3 an den DSR**

Welche (weiteren) Gründe sprechen dafür bei Einzelverpflichtungen keine Risikoanpassung vorzunehmen?

Question 3

Paragraph B9 of Appendix B proposes a limited exception for onerous contracts arising from transactions within the scope of IAS 18 *Revenue* or IFRS 4 *Insurance Contracts*. The relevant future outflows would be the costs the entity expects to incur to fulfil its contractual obligations, rather than the amounts the entity would pay a contractor to fulfil them on its behalf. Paragraphs BC23–BC27 of the Basis for Conclusions explain the reason for this exception.

Do you support the exception? If not, what would you propose instead and why?

Our approach would be based on expected costs, so from our perspective, an exemption is not necessary. In general, we would prefer equal treatment for all onerous contracts.

Sonstige Punkte***Beibehaltung des probability recognition criteria***

Ein DSR-Mitglied hat in der letzten Sitzung die Sichtweise des IASB zu diesem Punkt erläutert. Danach haben die Abschlussersteller in der Vergangenheit die Ansatzkriterien falsch angewendet. Es ist zunächst zu prüfen, ob eine gegenwärtige Verpflichtung vorliegt oder nicht. Die Frage nach der Wahrscheinlichkeit des Ressourcenabflusses ist dann obsolet.

Frage 4 an den DSR

Ist der DSR für eine Beibehaltung des *probability recognition criteria*?

Rechtsstreitigkeiten

Sofern der IASB bei seiner bisherigen Auffassung bleibt – das *probability recognition criteria* zu streichen – sollte nach der Auffassung eines Teilnehmers an der öffentlichen Diskussion der IASB weitere Erläuterungen zur Anwendung der Ansatzkriterien – insbesondere bei Rechtsstreitigkeiten – geben und beschreiben, wann *extremely rare cases* tatsächlich vorliegen.

Frage 5 an den DSR

Soll dieser Punkt in die Stellungnahme aufgenommen werden?



Ein DSR-Mitglied hat in der letzten Sitzung das in den USA geltende *attorney-client privilege* angesprochen. In dem Moment, in dem ein Unternehmen seinem Abschlussprüfer seine Unterlagen zu einem Rechtsstreit zur Verfügung stellt, muss es diese auch dem Kläger zur Verfügung stellen. Die Verhandlungsposition des Unternehmens wird unter anderem dadurch geschwächt, dass dem Kläger vorhandene Erwartungswertberechnungen des Unternehmens in die Hände fallen.

Frage 6 an den DSR

Der DSR hat diesen Punkt in der letzten Sitzung nicht abschließend diskutiert.

Welche Konsequenzen für die Bilanzierung von Rechtsstreitigkeiten zieht der DSR hieraus?