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DSR – öffentliche SITZUNGSUNTERLAGE

DSR-Sitzung:	152. / 04.01.2011 / 16:00– 17:30 Uhr
TOP:	07 – IAS 37 legal dispute
Thema:	Beschlusslage des IASB
Papier:	152_07a_IAS 37 legal dispute_Präsentation

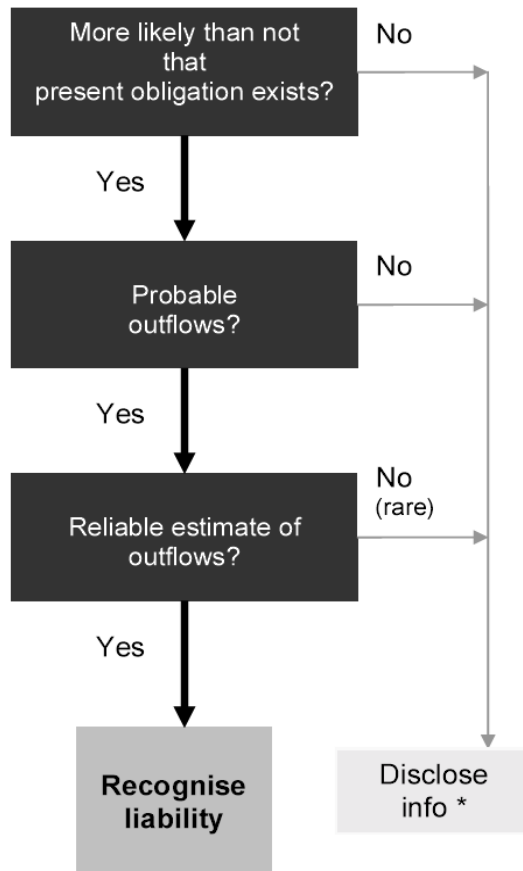


Stand der Diskussion

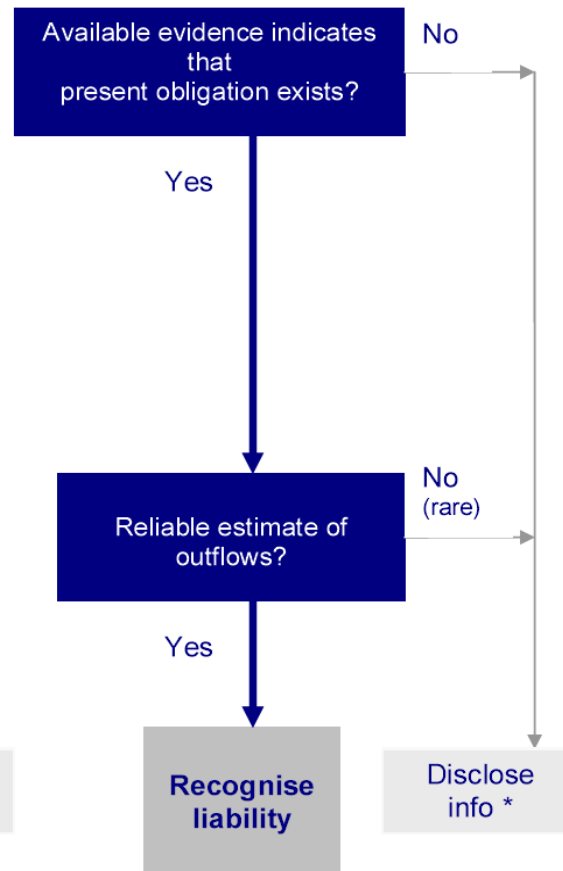
- IASB work plan 20 December 2010
 - In November 2010 the IASB and FASB decided to amend the timetable for projects that are important but less urgent. These changes will allow the boards and interested parties to focus on the projects the boards are aiming to complete by 30 June 2011. The projects affected are...Liabilities (IAS 37 amendments)....The boards expect to resume discussing these topics after June 2011.
- IASB update November
 - Next steps: the staff intend to place a staff paper – which will address all of the matters discussed above on the Board's website. The paper will invite interested parties to engage with the staff to help them determine how best to develop the proposals for further consideration by the Board after June 2011. If the Board reaches decisions on all aspects of the proposals, it will expose any proposed revised IFRS in its entirety for further comment.

Decision trees – recognition of possible obligations

IAS 37



Proposed IFRS



* Disclosures are not required if the possibility of outflows is remote. Disclosure is not required of information that can be expected to prejudice seriously the position of the entity in a dispute with other parties.



Recognition criteria – threshold for ‘liability exists’

- Threshold for ‘liability exists’:

The Board decided tentatively to specify that, in situations of uncertainty, this criterion is met if the available evidence indicates that it is more likely than not that a liability exists. This more-likely-than-not threshold is applied in IAS 37 at present.



Recognition – guidance for ‘liability exists’ criterion (1)

Uncertainty about existence of present obligation

13 In some situations, for example if governmental, legal or arbitration proceedings are in progress, pending or threatened against the entity, there might be uncertainty about whether the entity has an obligation. It might be uncertain:

- (a) whether the events that would give rise to an obligation occurred; or
- (b) how the law applies to those events.

The uncertainty will be resolved only on the occurrence of a future event, such as a final court ruling, that confirms whether the entity has an obligation.



Recognition – guidance for ‘liability exists’ criterion (2)

14 In such situations, the management of the entity shall judge whether it is more likely than not that an obligation exists, taking into account all available evidence and giving more weight to the evidence that is more persuasive. The nature and extent of the available evidence will depend on the circumstances. The evidence considered includes any additional evidence provided by events after the reporting period, to the extent that the evidence relates to conditions that existed at the end of the reporting period.

16 If the management of the entity concludes from the available evidence that [it is more likely than not that] the entity has an obligation, and the other recognition criteria in paragraph 7 are met, the entity recognises a liability. If the management concludes from the available evidence that [it is more likely than not that] the entity does not have an obligation, the entity does not recognise a liability. Instead, it discloses the information required by paragraph 51 of this [draft] IFRS.



Example 2: Claim for patent infringement (1)

IE8

Various third parties have separately accused the entity of infringing their patent rights and have made claims for compensation against the entity.

IE9

The entity has sought preliminary advice from experts. This advice indicates that, although the entity may be able to defend the claims successfully, the arguments in some cases are not clear cut. The entity would need to obtain further specialist opinions and the costs of defending these cases would be high. In similar situations in the past, the entity has settled with claimants instead of defending the claims.



Example 2: Claim for patent infringement (2)

IE10

On the basis of this evidence, management judges that it is more likely than not that it will settle some of the claims rather than defend them. Using its experience with similar claims, management is able to determine an estimate of the possible settlement amounts for these claims that is sufficiently reliable to meet the recognition criteria. Consequently, the entity recognises liabilities for the claims.

IE11

The claims are sufficiently similar in nature that aggregated information about them is sufficient to fulfil the disclosure requirements of the [draft] IFRS. Consequently, the entity treats the recognised liabilities as a single class for disclosure purposes.



Recognition criteria – removal of ‘probable outflows’ criterion

- The board considered objections to its proposal to omit a ‘probable outflows’ recognition criterion from the IFRS. The Board noted that the probable outflows criterion, which is in IAS 37 at present, prevents entities from recognising some material liabilities in their financial statements. The Board also noted that its other tentative decisions (ie to add a more-likely-than-not threshold to the recognition criteria and to focus guidance for legal proceedings on the expected outcome of the proceedings) might help to address some of the practical difficulties identified by those opposing the omission of the probable outflows criterion. The Board re-affirmed its preference for omitting the criterion but acknowledged the need for further consultation and debate on this matter. The Board asked the staff to prepare , and to invite comments on, a paper setting out the arguments for omitting the probable outflows criterion and discussing the objections raised.