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**Financial Reporting Technical  
Committee**

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Berlin, 12 March 2025

Dear Andreas,

**ED/2024/8 Provisions—Targeted Improvements (Proposed amendments to IAS 37)**

On behalf of the Accounting Standards Committee of Germany, I am writing to comment on ED/2024/8 Provisions—Targeted Improvements (Proposed amendments to IAS 37), issued by the IASB on 12 November 2024 (herein referred to as 'ED'). We appreciate the opportunity to comment on the proposals.

We support the IASB's efforts to clarify and amend existing IAS 37 requirements. Overall, we agree with the proposals as they seem to align IAS 37 requirements with the revised Conceptual Framework and to basically add to clarity.

As regards the present obligation recognition criterion, we consider the proposed new requirement (in particular, the three conditions) not the best approach to address current challenges. In our view, more clarity about whether and when to recognise a provision comes along with more challenges as regards measuring that provision. Further, we are not fully convinced by the new or amended guidance and examples. While they illustrate how to apply the (amended) recognition criterion in general, they leave open, or even raise, some questions in detail.

As regards the other proposals (ie. costs to be included, discount rates, and transition), we basically agree, but have some minor reservations.

For more details on our findings on the specific proposals in the ED, we refer to our responses to the questions which are laid out in the appendix to this letter. If you would like to discuss our comments further, please do not hesitate to contact Jan-Velten Große ([groesse@drsc.de](mailto:groesse@drsc.de)) or me.

Yours sincerely,

*Sven Morich*

Vice President

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## **Appendix – Answers to the questions in the ED**

### **Question 1 – Present obligation recognition criterion**

*The IASB proposes:*

- *to update the definition of a liability in IAS 37 to align it with the definition in the Conceptual Framework for Financial Reporting (paragraph 10);*
- *to align the wording of the recognition criterion that applies that definition (the present obligation recognition criterion) with the updated definition of a liability (paragraph 14(a));*
- *to amend the requirements for applying that criterion (paragraphs 14A–16 and 72–81); and*
- *to make minor amendments to other paragraphs in IAS 37 that include words or phrases from the updated definition of a liability (Appendix A).*

*The proposals include withdrawing IFRIC 6 and IFRIC 21.*

*Do you agree with these proposals? Why or why not? If you disagree, which aspects do you disagree with and what would you suggest instead.*

First, we agree with the proposals for aligning definitions and respective wording in IAS 37 with the amended Conceptual Framework.

Second, as regards the new ‘present obligation recognition criterion’, we generally consider the new wording and the three conditions being very complex and highly structured. From a mere conceptual perspective, they might appear reasonable. However, we are concerned whether the new criterion and its conditions are understandable from a practical perspective.

We like to mention some aspects that seem not sufficiently clear or no real improvement:

- **Transfer condition:** We acknowledge that reflecting in IAS 37 the Framework’s new concept and definition of a liability requires the ‘transfer condition’ to become part of the ‘present obligation recognition criterion’ (as explained in ED.BC32-33). As a result, ‘transfer’ plays a double role when assessing recognition of a provision. While, from a theoretical perspective, there is clarity about *why* the ‘transfer’ criterion need to be assessed twice (the one is about transfer of a resource as the *nature* of an obligation, the other is about the *probability* of a transfer), it seems simply overstructured *that* ‘transfer’ need to be assessed twice.
- **Timing of recognition:** We understand that the proposals do not aim at requiring a provision to be recognised earlier than under current requirements – except for obligations that depend on two (or more) separate actions (see new Example 13). We support this general precondition as well as the clarifications as regards recognition in the specific case of two (or more) separate actions, even if this comes along with an earlier recognition. However, we are not sure whether there is indeed no earlier recognition in any other circumstances.
- **Recognition vs. measurement:** Finally, it seems that more clarity about recognition leads to less clarity about measuring a provision. We feel that the proposed amendments indeed add to clarity as regards the (binary) decision of recognising a provision (or not). However,



this is at the price of measuring a provision becoming more complex – particularly when the obligation accumulates over time, necessarily leading to the amount of a recognised provision accumulating over time, too.

Overall, we consider the proposed amendments to the recognition criterion not the best approach to address current challenges.

Third, we agree with including examples in the IAS 37 Implementation Guidance thereby replacing IFRIC 6 and IFRIC 21.

**Question 2 – Measurement—Expenditure required to settle an obligation**

*The IASB proposes to specify the costs an entity includes in estimating the future expenditure required to settle an obligation (paragraph 40A). ... Do you agree with this proposal? Why or why not? If you disagree, what would you suggest instead.*

Yes, we agree. As a matter of principle, aligning para. 40A with para. 68A appears appropriate.

Despite this clarification, some details remain unclear.

- Eg. in case of a legal dispute, it seems clear that external costs are to be included, but the inclusion of internal (legal) costs remains unclear. We understand that the primary intention is clarifying the principle of whether and how to include an allocation of direct overheads as well as incremental expenditures in measuring obligations that will be fulfilled by providing goods or services to the counterparty (for example, obligations under onerous sales contracts). This said, we assume that if expenditures to third parties are affected, for example in a legal dispute, costs of external and internal legal advisers would be taken into account along with this principle. However, this does not become clear from the wording.
- Furthermore, a lack of clarity may persist as there is no unique understanding of the term 'directly related') – for example, the extent to which pro rata fixed costs are considered directly related.

This said, we suggest some further clarifications or examples related to para. 40A (in line with para. 68A) be added.

**Question 3 – Discount rates**

*The IASB proposes to specify that an entity discounts the future expenditure required to settle an obligation at a rate (or rates) that reflect(s) the time value of money—represented by a risk-free rate—with no adjustment for non-performance risk (paragraphs 47–47A).*

*The IASB also proposes to require an entity to disclose the discount rate (or rates) it has used and the approach it has used to determine that rate (or those rates) (paragraph 85(d)). ...*

*Do you agree with (a) the proposed discount rate requirements; and (b) the proposed disclosure requirements? Why or why not? If you disagree, what would you suggest instead.*

(a) Yes, we basically agree with the proposal of using a risk-free rate (ie. with no adjustment for non-performance risk) when discounting a provision. We agree that time value of money could be represented by a risk-free interest rate. We further agree that requiring the use of a risk-free rate could reduce diversity and increase transparency to some extent.

However, we have some reservations in two regards:

- As regards methods for determining a risk-free rate, we think it is appropriate (as a matter of principle) to not prescribing it and to not adding further guidance. Nevertheless, this would still allow for considerable diversity in determining the ‘real’ (hypothetical) risk-free rate – ie. which reference interest rate is appropriate. Further, this proposed change would certainly not avoid reconsidering, and potentially changing, ‘well-established practice’. While aiming at less diversity along with hopefully little changes to current practice is fully supported by us, we take the view that simply prescribing the use of a risk-free rate does effectively not promote these aims.
- As regards other IFRS Accounting Standards, if IAS 37 prescribed using a risk-free rate for measuring a provision, inconsistencies with other Standards would occur. IAS 19 requires the use of a discount rate derived from high-quality corporate bonds. Considering this would raise the question of whether yields on high-rated corporate bonds or government bonds may also be used as a discount rate. IFRS 9 requires measuring a liability on initial recognition at its fair value. Considering this would raise the issue of a potential ‘one-off effect’, as soon as a recognised provision were replaced by a liability.

This said, a risk-free rate might have its merits but has some drawbacks, too. Hence, we are not yet convinced that a risk-free rate for discounting provisions is, on balance, beneficial.

(b) We fully agree with the proposed disclosures as they do help increasing transparency.

**Question 4 – Transition requirements and effective date**

*(a) The IASB proposes transition requirements for the proposed amendments (paras. 94B–94E). ... Do you agree with these proposals? Why or why not? If you disagree, which aspects do you disagree with and what would you suggest instead?*

*(b) If the IASB decides to amend IAS 37, it will decide on an effective date for the amendments that gives those applying IAS 37 sufficient time to prepare for the new requirements. Do you wish to highlight any factors the IASB should consider in assessing the time needed to prepare for the amendments proposed in this exposure draft?*

(a) Yes, we agree with the principle of a retrospective application as well as with the two simplifications.

In addition, we like to suggest reconsidering whether the transition rule for applying the new requirement on cost being included (para. 94D) could also be optional. Further, we feel the requirement for apportioning the adjustment amount (para. 94E(b)) be recondite. For ease of application, an example (eg. in Appendix to IASB Agenda Paper 22B, June 2024) could be added. Finally, we like to point to the fact that applying new requirements retrospectively would inevitably risk the use of hindsight. This could appear inappropriate, since recognising and measuring provisions is eminently based on highly tentative, current estimates and uncertainties.

(b) We have no additional comments as regards the effective date.

**Question 5 – Disclosure requirements for subsidiaries without public accountability**

*The IASB proposes to add to IFRS 19 a requirement to disclose the discount rate (or rates) used in measuring a provision, but not to add a requirement to disclose the approach used to determine that rate (or those rates) (Appendix B). Do you agree with this proposal? Why or why not? If you disagree, which proposal do you disagree with and what would you suggest instead?*

Yes, we agree, as the proposed disclosures under IFRS 19 are reduced compared to those under IAS 37.

**Question 6 – Guidance on implementing IAS 37**

*The IASB proposes amendments to the Guidance on implementing IAS 37. It proposes:*

- (a) to expand the decision tree in Section B;*
- (b) to update the analysis in the illustrative examples in Section C; and*
- (c) to add illustrative examples to Section C.*

*Do you think the proposed decision tree and examples are helpful in illustrating the application of the requirements? If not, why not? Do you have any other comments on the proposed decision tree or illustrative examples?*

We agree with the proposed decision tree, since we deem it appropriately reflecting the amended criteria and conditions.

However, we consider the decision tree to be very complex. It underlines our perception that the criteria for recognising a provision are very complex and highly structured. Applying and operationalising these criteria require guidance, ie. many detailed examples. Those examples might help when being applied to similar fact patterns, but are potentially not helpful or even impedimental for deviating or different fact patterns.

This said, we are still undecided whether the new and/or amended examples are really helpful. On the one hand, we support these examples since they illustrate the application of the criteria, in particular the 'present obligation recognition criterion' (and its three conditions). This is particularly the case with example 15, which appear to illustrate very clear how to apply the criterion and the reasons behind.

On the other, these examples are helpful only when being applied to identical fact patterns. In case of deviating fact patterns, these examples may not prove applicable. We like to illustrate our reservations by pointing to selected examples and some follow-up questions:

- 13B (Levies): We acknowledged that the fact pattern in this example does not equal the European bank levy. Therefore, it remains unclear how to adapt this example on the European bank levy. More precisely, it is unclear how the example would read (ie. how to apply the recognition criterion) if the levy is charged even if an entity is not operating as a bank on the last day of its annual reporting period. Further, the example leaves open why the levy shall be passivated but not expensed in the course of a (annual) period.
- 13B (Levies) and 13C (Property tax): When considering these examples, we wondered how to apply the recognition criterion in interim periods. These (and any other) examples do not address how the 'concept' of (i) recognising a provision from the moment, eg. beginning of a period, when the action(s) imposing a responsibility is/are taken, while (ii) accumulating the amount over time would be applied to interim periods and interim dates.
- 5B (Closure and termination penalties): This example causes some confusion. We refer to an IFRS IC agenda decision (in September 2019), which touched on an obligation to pay compensation under a customer contract and explained why, and how, IFRS 15 requirements apply. Taking both together seem to raise the general question of whether an obligation to pay compensation given a customer contract has been terminated early is in the scope of IAS 37 or IFRS 15.

We suggest reconsidering, and potentially expanding, the guidance on these aspects.

**Question 7 – Other comments**

*Do you have comments on any other aspects of the proposals in the Exposure Draft?*

We have no further comments.