ICAEW
REPRESENTATION 27/25

PROVISIONS - TARGETED IMPROVEMENTS: PROPOSED AMENDMENTS TO IAS 37

Issued 6 March 2025

ICAEW welcomes the opportunity to comment on the Provisions - Targeted Improvements: Proposed amendments to IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* published by International Accounting Standards Board on 12 November 2024, a copy of which is available from this link.

While we are broadly supportive of a number of the ED's proposals, we have concerns about the scale and complexity of the proposed amendments and are particularly concerned about the proposals relating to levies.

We agree that it is sensible to align the definition of a liability in IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* with the definition in the *Conceptual Framework for Financial Reporting* and are supportive of the proposal to specify that an entity should not adjust the rate used to discount a provision for non-performance risk. Additionally, we broadly agree with the proposals to specify the costs an entity includes when estimating the future expenditure required to settle an obligation, although we believe greater clarity is required with respect to the scope of the proposed requirement and the costs which relate directly to an obligation.

However, we are concerned that the scale and complexity of the proposed amendments risk adversely impacting the Standard's understandability and clarity. This could lead to application issues and, consequently, diversity in practice. In our view, there are some proposed requirements that raise serious questions and concerns and some that would benefit from further clarification. We caution that considerable care will be required when finalising the Standard to avoid creating unintended consequences.

We are particularly concerned that the detailed issues associated with 'fitting' levies into IAS 37 have not been adequately identified and addressed in this ED. While we support addressing known issues with accounting for levies, we believe further work is required to answer certain fundamental questions before appropriate accounting requirements for levies can be developed.

ICAEW
Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK
T +44 (0)1908 248 250 F +44 (0)20 7920 0547   icaew.com

The Institute of Chartered Accountants in England and Wales (ICAEW) incorporated by Royal Charter (RC000246)
Registered office: Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK

This response of 6 March 2025 has been prepared by the ICAEW Corporate Reporting Faculty. Recognised internationally as a leading authority on corporate reporting, the faculty, through its Financial and Non-Financial Reporting committees, is responsible for formulating ICAEW policy on financial and non-financial reporting issues and makes submissions to standard setters and other external bodies on behalf of ICAEW. The faculty provides an extensive range of services to its members including providing practical assistance with common corporate reporting problems.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of sustainable economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 170,000 chartered accountant members in over 146 countries. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

© ICAEW 2025
All rights reserved.
This document may be reproduced without specific permission, in whole or part, free of charge and in any format or medium, subject to the conditions that:
• it is appropriately attributed, replicated accurately and is not used in a misleading context;
• the source of the extract or document is acknowledged and the title and ICAEW reference number are quoted.
Where third-party copyright material has been identified application for permission must be made to the copyright holder.
For more information, please contact: crf@icaew.com

KEY POINTS

1. ICAEW welcomes the opportunity to comment on this exposure draft (ED) from the International Accounting Standards Board (IASB). We are broadly supportive of a number of the ED's proposals but, as outlined below, we believe there are some proposed requirements that raise serious questions and concerns and some that would benefit from further clarification.

AREAS OF BROAD AGREEMENT

2. In our view, IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* is largely working well. However, we agree that it is sensible to align the definition of a liability in IAS 37 with the definition in the *Conceptual Framework for Financial Reporting* (the Framework).
3. We are supportive of the proposal to specify that an entity should not adjust the rate used to discount a provision for non-performance risk. See our response to Question 3 for further detail.
4. We agree that the requirement relating to the costs an entity must include when estimating the future expenditure required to settle a present obligation should be consistent with IAS 37.68A (which specifies the costs an entity must consider when assessing if a contract is onerous).
5. We believe, however, that greater clarity over the scope of the proposed requirement and the costs which, in the IASB's view, relate directly to an obligation would be beneficial. See our response to Question 2 for further detail.

SCALE AND COMPLEXITY OF THE PROPOSALS

6. We are concerned that the scale and complexity of the proposed amendments risk adversely impacting the Standard's understandability and clarity, which could lead to application issues and, consequently, diversity in practice. We believe some of the proposals risk creating unintended consequences. See our response to Question 1 for more detail on our concerns about the drafting of the proposals.

APPROACH TO LEVIES – MORE WORK REQUIRED

7. We have heard a range of different views on the proposals with respect to levies. We acknowledge that there are issues with the current requirements for accounting for levies. In anticipation of the possible introduction of more levies relating to sustainability matters, we recognise the need to consider accounting requirements for levies and support the IASB's attempts to address the issue.
8. However, we have a number of questions and concerns about the drafting of the proposed requirements and, on balance, do not support the proposals as drafted on the basis that they are complex and could have significant unintended consequences for the accounting for other types of provisions.
9. We do not believe that the challenges associated with 'fitting' levies into IAS 37 have been adequately identified and addressed in this ED. We believe that further work is required to answer fundamental questions, such as whether a levy is a reciprocal transaction, before appropriate accounting requirements for levies can be developed. See our response to Question 1 for more detail on our concerns about the proposals as they relate to levies.

© ICAEW 2025

ILLUSTRATIVE EXAMPLES

10. We believe the way in which the Illustrative Examples are structured in the proposals is helpful and support the use of tables to clarify the conclusions reached.
11. However, we are concerned that the fact patterns in the proposed Illustrative Examples are too simplistic, meaning entities may face issues applying the examples in practice.
12. Additionally, in some cases, we have not been able to reconcile the conclusions reached in the examples in the proposed *Guidance on implementing IAS 37* (the Implementation Guidance) to the proposed requirements. Our response to Question 6 and the appendix at the end of this letter cover concerns relating to specific proposals.

ANSWERS TO SPECIFIC QUESTIONS

Question 1 – Present obligation recognition criterion

The IASB proposes:

- ***to update the definition of a liability in IAS 37*** **Provisions, Contingent Liabilities and Contingent Assets** ***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 **Liabilities arising from Participating in a Specific Market – Waste Electrical and Electronic Equipment** ***and IFRIC 21*** **Levies** ***(paragraph 108).***

Paragraphs BC3–BC54 and BC86 of the Basis for Conclusions and Appendix A to the Basis for Conclusions explain the IASB's reasoning for these proposals.

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?

13. While we believe IAS 37 is largely working well, we agree that it is sensible for the IASB to update the definition of a liability in the Standard to align it with the definition of a liability in the Framework.
14. We acknowledge that the application of IAS 37 can be challenging or confusing because some paragraphs and examples combine the present obligation and the past event into a single 'obligating event' rather than separately identifying the obligation and past-event conditions. As a result, it is not always clear how conclusions in the Standard and the Illustrative Examples have been reached.
15. That said, we are concerned that the scale and complexity of the proposed amendments risk adversely impacting the Standard's understandability and clarity, which could lead to application issues.

Approach to levies – more work required

16. We have heard a range of different views on the proposals with respect to levies, detailed below, and acknowledge that there are issues with the current requirements for accounting for levies.

17. While we support the IASB in trying to address known accounting issues for levies, we have serious questions and concerns about the drafting of the proposed requirements and, on balance, do not support the proposals as drafted.
18. We believe that further work is required to answer fundamental questions, such as whether a levy is a reciprocal transaction, before appropriate accounting requirements for levies can be developed.
19. With regard to the views we've heard, some stakeholders welcome requirements that lead, where appropriate, to provisions for levies being built up over time. In particular, our conversations indicate a degree of support for the proposals in the context of threshold-based environmental schemes, such as the EU's Emissions Trading Scheme, where certain stakeholders believe the proposed requirements will better reflect how entities produce emissions.
20. We have also heard particular concerns about recognition of provisions for bank levies, and how interim financial statements can lack information on the levies an entity might be obliged to pay. Furthermore, in anticipation of the possible introduction of more levies relating to sustainability matters, we recognise the need to consider accounting requirements for levies and support the IASB's attempts to address the issue.
21. Other stakeholders question whether issues with accounting for levies are best addressed through such extensive amendments to IAS 37's recognition criteria; they note that preparers and users of financial statements are now used to the requirements for levies as outlined in IFRIC 21 *Levies* (meaning the issue of recognition of provisions for levies is arguably not an urgent one). They also believe it is essential that any changes proposed in relation to levies are tested against the different scenarios that exist, are fully considered for potential unintended consequences, and are carefully drafted in a way that does not undermine the clarity of the liability recognition requirements in IAS 37.
22. However, we do not believe that the detailed issues associated with 'fitting' levies into a Standard that, in our view, is operating well have been adequately identified and addressed in this ED.
23. We are concerned that the proposals risk creating unintended consequences and have identified some potential issues in paragraphs 34 – 38 below. We also note that the risk of unintended consequences extends beyond IAS 37 since the requirements of IFRIC 21 are incorporated into guidance relating to other IFRS® Accounting Standards (for example, guidance supporting application of IFRS 16 *Leases* in cases where a lessor has direct responsibility for payment of a direct tax, but recovers it from the lessee through additional lease payments).
24. The issue of recognition of provisions for levies is therefore a topic for which changes will require considerable care. We encourage the IASB to consider extensive field testing of the proposed requirements before they are finalised.
25. As an alternative to including requirements for levies in IAS 37, we have heard calls for a separate Standard for non-reciprocal transactions, including levies (subject to consideration of our comments in paragraphs 42 – 45 of this response). This may improve guidance for non-reciprocal transactions more generally and, with the fourth agenda consultation on the horizon, may be an approach the IASB wishes to consider.

"No practical ability to avoid" as applied to levies

26. Paragraph 14Q of the ED includes proposals to require the recognition of a provision in certain circumstances when the entity has no practical ability to avoid the obligation. Where an entity prepares its financial statements on a going concern basis, paragraph 14R of the

© ICAEW 2025

ED clarifies that an entity does not have a practical ability to avoid an obligation by ceasing to trade.

27. In general, we agree that - when it is clear there is a past event - an entity should not be able to avoid creating a provision because of a notional ability to stop trading. However, we have concerns around the application of paragraphs 14Q and 14R of the ED to levies (where there may be a lack of clarity around when the past event is, or whether payments are made in arrears or in advance). In such cases, paragraphs 14Q and 14R of the ED may lead to entities creating provisions for future events.

28. We are particularly concerned about the application of these proposed requirements in the context of an annual levy payable by banks. It could realistically take over 12 months for an entity to cease operating as a bank. In cases where an entity is operating as a bank in the current reporting period and has no practical ability to cease trading as such within the next 12 months, should it recognise (in the current reporting period) a provision for a levy due in two years' time? If so, where should the line be drawn? Should the entity also recognise a provision for a levy payable in, say, three years' time?

29. As a second example, the Bank of England Levy operates such that the Reference Period may be in a previous accounting period to the Levy Year. We anticipate that this will create difficulties in determining when the past-event condition is met. Applying paragraph 14Q, the proposed requirements could simply lead to the recognition of the levy a year earlier than currently.

30. More generally, we are concerned that, without further clarification, the link between an entity having "no practical ability to avoid" an obligation and the preparation of the financial statements on a going concern basis risks creating confusion. Our comments on the Illustrative Examples in the proposed Implementation Guidance in the appendix at the end of this response, together with comments in paragraphs 36 and 37 below, highlight these concerns.

The past-event condition – determination of actions taken

31. In our view, it is not always clear how to determine whether an entity has an obligation as a result of taking a single action (possibly over time), meaning it should apply paragraph 14O, or taking two (or more) separate actions, meaning it should apply paragraph 14Q. To illustrate, in Example 13C of Appendix C in the Implementation Guidance (on property tax), it is not clear to us why the purchase of the property at an earlier date is not an action required for tax to be payable. Neither is it clear to us how Example 13C differs from Example 13B (which illustrates a levy on an entity operating as a bank on the last day of its annual reporting period), in which it is determined that there are two actions. We recommend the requirements and Implementation Guidance provide greater clarity on how to analyse obligations and determine what constitutes an 'action'.

32. To illustrate further, in Example 13A of Appendix C in the Implementation Guidance (on a revenue levy) we are not convinced that generating revenue in a market in 20X0 and operating in the market in 20X1 are two separate actions. Nor do we agree that there are two actions in the fact pattern in Example 13B; in our judgement, the levy scheme only requires the entity to be operating as a bank on the last day of its reporting period (ie, one action, which we believe happens at a point in time rather than over time). We therefore do not believe that there is sufficient clarity in the proposed requirements to support the conclusions reached in Examples 13A – 13C.

33. To illustrate our concerns with a real-life example, we anticipate that diversity may arise when paragraphs 14O – 14R are applied to property tax on leased properties. Currently, applying IFRIC 21, such property taxes are expensed over time, even in the case of onerous

(vacant property) leases. However, without clear guidance to allow an entity to determine how many actions it has taken (or will take), it is unclear how entities would recognise these taxes when applying the proposed requirements. Paragraph 14O could support expensing the tax over time. However, an entity might conclude that the transfer is a consequence of two or more actions and that, due to being in a lease contract, there is no practical ability to avoid future property tax. Applying paragraph 14Q, the entity might therefore provide for the tax in full.

Paragraphs 14O – 14R – other concerns and possible unintended consequences

34. We are concerned that paragraphs 14P and 14Q could be interpreted as introducing two different criteria to be considered when assessing if the past-event criterion has been met. Paragraph 14P requires an entity to consider whether it is *probable* that the transfer of an economic resource will occur, while paragraph 14Q requires an entity to consider whether it has *no practical ability to avoid* taking an action that will lead to the transfer of an economic resource. This difference adds a degree of complication which we anticipate will create challenges when applying the new requirements.
35. Additionally, paragraphs 14O and 14P of the ED relate to building up a provision over time. It may be the case that the requirements have been drafted with levies in mind. However, given that the requirements will apply to all provisions, we are concerned that there may be unintended consequences when these requirements are applied to other types of provision beyond levies.
36. By way of illustration, currently, many entities do not provide for royalties payable on future sales on the basis that there is no obligating event because they can choose not to make such sales. However, an entity that only sells one product (on which a royalty is payable) must make future sales to continue operating as a going concern. In applying paragraphs 14Q and 14R of the ED, the entity might conclude that the future sales are a separate action and, as it has no practical ability to avoid the future sales, a provision for royalties payable on future sales is required.
37. We are also concerned that entities will face difficulties when applying paragraph 14R of the ED in more nuanced or complex situations. To continue our example from above, would an entity be required to provide for royalties payable on future sales if it sells several different products but only pays a levy when selling one of those products? Or, if a subsidiary provides for royalties payable on future sales because it will not be able to operate as a going concern without making those sales, must the provision also appear in the consolidated financial statements?
38. More generally with regard to payments for asset purchases that vary depending on future activity, we note that the IFRS Interpretations Committee has previously been unable to reach a consensus on whether an entity should recognise a liability for variable payments at the date of purchasing the asset or when the related activity occurs, or on the measurement of the liability. We are concerned that the proposed amendments to IAS 37 might inadvertently codify practice relating to such payments without sufficient consideration.

Illustration of concerns around paragraphs 14O – 14R

39. The example in paragraph 14P of the proposed Standard highlights some of our concerns regarding the clarity of the proposed requirements. This example refers to a levy based on a percentage of revenue and concludes that at any date in the year, the present obligation should be the relevant portion of the total expected obligation for the year (ie, the provision accumulates over time, applying paragraph 14O).

40. However, the entity could, in the same situation, determine it is required to apply paragraph 14Q rather than 14O. The entity might judge that its future sales are a separate action that, due to preparing its financial statements on a going concern basis, it has no practical ability avoid. In this case, the entity may conclude that it should recognise a provision and that it should be measured as an estimate of the full levy expected to be payable, rather than a portion.

41. Without clear guidance that allows an entity to determine whether it takes one action over time, or two or more actions, there is potential for different interpretations and conclusions to arise. In some cases, the proposed requirements are simply bringing forward the point at which a provision is recognised. It is not clear to us how this would represent an improvement to the current requirements.

Levies as a transfer

42. Several of our concerns about paragraphs 14O – 14R of the ED are related to underlying assumptions about levies. While we acknowledge that the matter of whether a levy is a reciprocal or non-reciprocal transaction is not under consultation, we are aware that different views exist on whether an entity obtains economic benefits by paying a levy. Some believe that paying a levy is similar to paying for an operating licence ie, it provides the entity with the economic benefit of access to a market. Others believe, however, that a levy is a non-reciprocal payment ie, similar to a tax and that it does not provide economic benefits directly to the entity.

43. Without clear requirements and guidance, an entity’s view of the benefits obtained from paying a levy might affect its interpretation of paragraphs 14O – 14R of the ED. We understand why stakeholders who view levies as similar to operating licences would lean towards recognising a levy as an expense over a period (as the associated benefits are received over the period). On the other hand, we also understand why stakeholders who view levies as similar to a tax question the appropriateness of recognising a levy over time and agree with the requirements of IFRIC 21.

44. Our understanding is that the IASB views a levy as a non-reciprocal transfer, similar to a tax (see, for example, Examples 13A and 13B in the proposed amendments to the guidance on implementing IAS 37). We have therefore heard some concern that, by requiring the recognition of certain levies over time, the proposed amendments do not align with the IASB’s position.

45. For example, for a levy such as the UK Bank Levy, which requires an entity to pay a levy if it is operating as a bank at the end of an accounting period, the levy is payable due to the bank’s circumstance at a point in time rather than actions it has taken over time. Where a levy is viewed as a non-reciprocal transfer for which the entity receives no economic benefits, it is not clear to us how it could be concluded that a provision for this levy should be accumulated over time (applying paragraph 14O of the ED). In our view, for such a levy, this conclusion can only be reached if the levy is seen as a reciprocal transaction, in which incremental benefit is received or consumed each day. The IASB may wish to reflect on this concern as it finalises the Standard and the Basis for Conclusions.

“No practical ability to avoid” and the relationship with “economic consequences”

46. Paragraph 14F(a)(ii) of the ED states that an entity has “no practical ability to avoid discharging its responsibility … (if) the economic consequences for the entity of not discharging the responsibility are expected to be significantly worse than the costs of discharging it”.

47. We recommend that the IASB clarifies the term "economic consequences" and how entities should interpret this term. For example, it is unclear whether an entity should take the potential economic consequence of reputational damage into account when measuring a provision. To illustrate, in the case of an onerous contract an entity would typically recognise a provision for the lower of the cost to fulfil the contract or the penalty for breaking the contract. However, if the entity considers that the reputational damage of not fulfilling the contract would be a greater "cost" (or "economic consequence") than the penalty and therefore commits to fulfilling the contract, should the entity now measure the provision at the estimated cost of fulfilling the contract?
48. We have also heard some stakeholders question why the economic consequences of not discharging a responsibility must be expected to be *significantly* worse than the costs of discharging it, rather than simply "worse".

Other points and drafting considerations

49. We question whether the proposals address all issues associated with creating provisions for levies, including asset recognition. For example, it is not clear to us that the proposals will accommodate levies paid in advance. We note that the IFRIC Interpretations Committee's agenda decision on *Deposits Relating to Taxes other than Income Tax (IAS 37)* includes some helpful thinking that could support further development of IAS 37 in this respect.
50. We note that the proposed amendments contain a degree of repetition of the definition of a liability. For example, paragraph 14M of the ED repeats paragraph 14A(c). As it finalises the amended Standard, we encourage the IASB to reflect on whether the wording in certain instances could be rationalised in this respect.

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).

Paragraphs BC63–BC66 of the Basis for Conclusions explain the IASB's reasoning for this proposal.

Do you agree with this proposal? Why or why not? If you disagree, what would you suggest instead?

Broad agreement

51. We agree that the requirement relating to the costs an entity must include when estimating the future expenditure required to settle a present obligation should be consistent with IAS 37.68A (which specifies the costs an entity must consider when assessing if a contract is onerous). Further, our understanding is that the proposed requirement is consistent with existing practice by many preparers.
52. We believe, however, that greater clarity over the scope of the proposed requirement and the costs which, in the IASB's view, relate directly to an obligation would be beneficial.

Scope of the proposed requirement

53. We are concerned that there is potential to misunderstand which provisions are in scope of proposed paragraph 40A. Based on the ED and the Basis for Conclusions, we understand that the proposed requirement will apply to all provisions.
54. However, on reviewing material produced by the IASB to support stakeholders' understanding of the proposals we are concerned that it is intended the requirement will apply only to provisions settled by providing goods or services (for example, onerous sales

contracts). If this is the case, we recommend that clarification of the scope of the proposed amendment is included in the final Standard.

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)).

Paragraphs BC67–BC85 of the Basis for Conclusions and Appendix B to the Basis for Conclusions explain the IASB's reasoning for these proposals.

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?

Discount rate requirements

55. We are broadly supportive of the proposed discount rate requirements, which will provide clarity for users of the Standard. We welcome the consistency that the proposed amendment will bring. Nevertheless, we have noted some concerns about the interaction between IAS 37 and IFRS 3 *Business Combinations* relating to discount rates in our response to Question 7.

Disclosure requirements

56. We support the proposal to require entities to disclose the discount rate(s) used when a provision is discounted.

57. We recommend that entities are required to disclose the discount rate(s) used *before* adjustments are made for risks that are not reflected in estimates of future cash flow. We believe this will improve comparability between entities that might take different approaches to reaching the best estimate of a provision.

Question 4 – Transition requirements and effective date

4(a) Transition requirements

The IASB proposes transition requirements for the proposed amendments (paragraphs 94B–94E).

Paragraphs BC87–BC100 of the Basis for Conclusions explain the IASB's reasoning for these proposals.

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?

4(b) Effective date

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?

58. We support the expedients offered in paragraphs 94D and 94E of the ED relating to changes in accounting policy which have been brought about by amended requirements for the costs to include in a provision and the discount rates.

59. We recommend that the IASB considers including an additional expedient for situations in which the amendments require entities to recognise new provisions in prior periods.

© ICAEW 2025

60. As noted in our response to Question 1, we are concerned that the proposed requirements in paragraphs 14O – 14R may lead to earlier recognition of provisions. If entities are required to apply these paragraphs retrospectively, we anticipate that they may need to recognise new provisions in previous accounting periods. This will result in provisions being measured with the benefit of hindsight. Additionally, where the provision now being recognised in an earlier period is relatively complex (for example, if it is related to an item of property, plant and equipment), entities may be required to incur undue cost to apply the requirements retrospectively.

61. We suggest that an expedient similar to that included in the transition requirements for IFRS 15 would be useful. The IFRS 15 expedient allows entities to assume that the estimates relevant to the provision at the latest reporting date have always been the relevant estimates for the provision.

Question 5 – Disclosure requirements for subsidiaries without public accountability

The IASB proposes to add to IFRS 19* Subsidiaries without Public Accountability: Disclosures *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).

Paragraphs BC101–BC105 of the Basis for Conclusions explain the IASB's reasoning for this proposal.

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?

62. Notwithstanding our comments in paragraph 57, we do not object to the proposal to require eligible subsidiaries applying IFRS 19 *Subsidiaries Without Public Accountability* to disclose the discount rate(s) used when a provision is discounted.

63. As expressed in our response to the IASB's November 2024 Exposure Draft *Amendments to IFRS 19 Subsidiaries Without Public Accountability: Disclosures*, we have concerns about the proportionality of IFRS 19's requirements. More broadly, we would like to see the IASB identifying opportunities to further reduce disclosure requirements for eligible subsidiaries. An approach offered in the UK by FRS 101 *Reduced Disclosure Framework* involves the use of equivalence exemptions, whereby certain disclosures are not required where there is sufficient information included within the parent's publicly available IFRS consolidated financial statements. We encourage the IASB to undertake such consideration in the specific context of these amendments.

Question 6 – Guidance on implementing IAS 37

The IASB proposes amendments to the Guidance on implementing IAS 37 Provisions, Contingent Liabilities and Contingent Assets. 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.

Paragraphs BC55–BC62 of the Basis for Conclusions explain the IASB's reasoning for these proposals.

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?

64. We believe the way in which the Illustrative Examples are structured in the proposals is helpful and support the use of tables to clarify the conclusions reached.

65. However, we have a number of concerns relating to matters of detail in the proposed amendments to the Implementation Guidance, which we outline in the appendix at the end of this response.

Reflection of real-life complexities in the Implementation Guidance

66. We understand why it may be appropriate to keep fact patterns simple when developing illustrative examples. However, we have heard concern that real-life fact patterns can be considerably more complex than those included in the Illustrative Examples, therefore entities may face issues applying the examples in practice.
67. In particular, we have heard concern that the rules around bank levies are precise and differ on a levy-by-levy basis, meaning it is difficult to generalise. For example, the rules of the UK Bank Levy differ from those of the Bank of England Levy such that Example 13B of Appendix C of the Implementation cannot be applied to both levies.
68. In our view, the Standard and Implementation Guidance will benefit from providing greater clarity around how a preparer might determine what constitutes an 'action' when applying paragraphs 14O – 14Q of the ED (see our comments in paragraphs 31 and 41).

Question 7 – Other comments

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

Alignment with IFRS 3

69. We recommend that the IASB takes this opportunity to consider whether it would be beneficial to amend IFRS 3 to require that provisions assumed in a business combination are measured in accordance with IAS 37.
70. IFRS 3 currently requires provisions assumed in a business combination to be measured at their fair value at acquisition. When measuring a single obligation, this will sometimes be disconnected with IAS 37 in circumstances where the obligation would be measured based on the most likely outcome.
71. In addition, the effect of non-performance risk is reflected when measuring a provision at fair value in accordance with IFRS 3 (and, by extension, IFRS 13 *Fair Value Measurement*). The proposed amendment in this ED to exclude non-performance risk when determining a discount rate will therefore create a further disconnect between the two Standards.
72. As well as addressing both of these issues, amending IFRS 3 as suggested would simultaneously simplify acquisition accounting by removing the need for 'day 2' remeasurement adjustments to provisions following the acquisition of a subsidiary.

Termination benefits

73. We note that the proposed paragraph 80A refers to the inclusion of termination benefits payable to employees in a provision for restructuring. We question whether this is needed, as IAS 19 *Employee Benefits* already sets out requirements for recognition and measurement of termination benefits. We encourage the IASB to reflect on the requirements of both IAS 19 and IAS 37 to avoid unnecessary duplication between Standards.

Use of "rare"

74. We note that there are instances when the ED states that in "rare" cases it may not be clear whether there is a present obligation (for example, in paragraphs 15 and 16). We question whether "rare" is an appropriate word to use. For most court cases, for example, it is unclear whether there is a present obligation.

Future operating costs

75. We note the proposal to delete paragraph 18, which states that no provision is recognised for costs that need to be incurred to operate in the future. We understand that both preparers and auditors find this paragraph to be a useful reference point and recommend retaining the paragraph in IAS 37.

APPENDIX – CONCERNS RELATED TO THE PROPOSED IMPLEMENTATION GUIDANCE

In addition to our comments on Examples 13A, 13B and 13C noted in paragraphs 31 and 32 of this response, we have identified several points relating to the proposed *Guidance on implementing IAS 37* which we recommend the IASB reflects on as it finalises the amendments to the Standard.

Example 5A – Closure of a division: no communication or implementation before end of the reporting period

- We have a concern about the completeness of the analysis in this example. We believe that, applying paragraph 14Q of the ED, the conclusion reached may differ if the entity has no practical ability to avoid restructuring (for example, because it would not be a going concern without restructuring).

Examples 6, 7, 11A and 11B – agreement with conclusions reached

- As explained below, we have identified points of detail in the analysis of Examples 6, 7, 11A and 11B. However, we note that we agree with the conclusions reached in the examples because, in all four cases, the transfer condition is not met.

Example 6 – Legal requirement to fit smoke filters

- We believe that in respect of the smoke filters (rather than the entity's obligation to pay a fine), the past-event condition might be met in example 6(a). For example, where the production of smoke is a necessary consequence of the entity's business model, we question whether the entity would be a going concern without producing smoke. Applying paragraph 14R of the ED, it could be concluded that the past event condition has therefore been satisfied because the entity has no practical ability to avoid producing smoke.

Example 7 – Staff retraining as a result of changes in the income tax system

- We agree with the analysis in this example where the entity could continue as a going concern without retraining its staff. However, applying paragraph 14R, we believe the past-event condition is met if the entity can avoid retraining its staff only by liquidating the entity or ceasing to trade.

Example 11A – Refurbishment costs: no legislative requirement

- We agree with the analysis in this example where the entity could continue as a going concern without replacing the lining of the furnace. However, applying paragraph 14R, we believe the past-event condition is met if the entity would cease to trade if it did not replace the lining.

Example 11B – Refurbishment costs: legislative requirement

- We are of the view that the past-event condition has been met in this example, as the entity has no practical ability to avoid the overhaul if it is to remain a going concern.

Interaction between examples

- It is unclear to us why the obligation condition is deemed to be met in Example 11B, but not in Example 7. In our view, in both cases the law imposes a responsibility on the relevant entity that the entity owes to its customers.

© ICAEW 2025