Finance for Europe

Andreas Barckow
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London
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21 February 2025

Dear Mr.Barckow,

**Exposure Draft – Provisions – Targeted Improvements - Proposed Amendments to IAS 37**

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the Exposure Draft Provisions – Targeted Improvements - Proposed Amendments to IAS 37 ('the Exposure Draft')**.**

AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors, and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society. AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia. AFME is registered on the EU Transparency Register, registration number 65110063986-76.

The appendix to this letter sets out our responses to the questions in the Exposure Draft.

We trust that our comments are helpful, and we look forward to engaging further with the IASB on the Exposure Draft.

Yours sincerely,

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**APPENDIX**

**EXPOSURE DRAFT**

**PROVISIONS – TARGETED IMPROVEMENTS PROPOSED AMENDMENTS TO IAS 37**

## Questions for respondents

### 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?

*We have concerns that between the proposed amendments to IAS 37.14Q and the illustrative examples it is unclear how the IASB intends IAS 37.14Q is applied. Members are particularly concerned on how IAS 37.14Q should be applied for bank levies where for example the liability only exists if a bank holds a banking license at a particular date. Please refer to our response to question 6 for further details.*

**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?

*We acknowledge that the proposal will achieve consistency between the costs included in measuring a provision and those included in the assessment of whether a contract is onerous, which was clarified through the narrow-scope amendments to IAS 37 in May 2020. However, we are concerned on the impact of expanding this requirement to the measurement of all provisions in scope of IAS 37. We are concerned that the lack of clarification around what types of costs the IASB intends entities should include may create diversity in practice, in particular for items such as internal costs to settle legal and customer redress provisions. We suggest the IASB provide further guidance such as further guidance in the standard, illustrative examples or accompanying education guidance on how to consider the allocation of other costs that relate directly to settlement obligations.*

**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?

*We agree with these requirements.*

**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?

*When setting an implementation date for these changes we would request the IASB considers the effective date of other published amendments or new accounting standards not yet effective. We would highlight members are currently investing significant time working through the impact assessment and implementation readiness for these other new accounting standards and amendments. As we expect amendments as noted under questions 1 and 2 will result in changes to existing practice by members, we would recommend the effective date of these proposed changes should not be before 1 January 2028, allowing entities sufficient time to perform an impact assessment and implementation readiness assessment of these changes, while managing commitments for other new or amended accounting standards such as IFRS 18 and amendments under IFRS 9.*

**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?

*We do not think this proposal will be applicable to our members.*

**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?

*We think the proposed decision tree and examples are helpful, however as noted in our response to question 1 have concerns that between the proposed amendments to IAS 37.14Q and the illustrative examples it is unclear how the IASB intends IAS 37.14Q is applied. Members are particularly concerned on how IAS 37.14Q should be applied for bank levies.*

*Example 13B and 13C*

*We would recommend that example 13b be made clearer to confirm that a levy calculated on the last day of an accounting period should be accrued from the start of the accounting period. Based on the following wording in the body of the example "Because the extent of the entity's obligation depends on the length of its annual reporting period, the present obligation accumulates over the annual reporting period" it appears the intension of this example is to illustrate the provision should be recognised over the annual reporting period. However, the conclusion notes "At the end of the annual reporting period a provision is recognised". We would therefore recommend the wording in the conclusion is amended to align to the conclusion noted in the body of the example.*

*In addition, the "past-event condition" analysis in example 13B, is on the basis that the amount payable under the levy will depend on the length of the reporting period which the bank was operating, which then supports the provision is recognised over time. However, it does not analyse a fact pattern that only an entity that is operating as a bank on the last day of its annual reporting period is within the scope of the levy. As such, it is unclear for some levies such as the UK Bank levy, where there would be no obligation if an entity is no longer operating as a bank at a particular point in time, whether a provision should be recognised over time or only at the point in time which the Bank must be operating for any obligation to arise. We have illustrated the terms of the UK Bank levy below, where any obligation only exists if a bank is operating at the end of a period:*

*A government charges a levy on banks. Any entity that is operating as a bank on the last day of its annual reporting period is within the scope of the levy. If the reporting period is longer or* *shorter than 12 months, the levy is increased or reduced proportionately. If the entity is not operating as a bank on the last day of its annual reporting period, there is no levy obligation (i.e. the levy is not prorated for the months that an entity operates as a bank during part of the year but stops its banking operation before the end of its annual reporting period). The amount of the levy is calculated by reference to the amounts in an entity's statement of financial position at the end of that reporting period.*

*End of the reporting period = 31 December 20X0.*

*The amount of the levy is equal to 0.01% of entity's statement of financial position at the end of that reporting period.*

*Expected Statement of financial position at 31 December 20X0 = CU 100 billion*

*Levy expected for reporting period 31 December 20X0 = CU 10 million*

*Under this fact pattern, based on the illustrative examples it is unclear how this levy should be accounted for in the interim financial statements, for example should it be recorded on a linearly basis (i.e. CU 2,5 million at 31 March 20X0, CU 5 million at 30 June 20X0, CU 7,5 million at 30 September 20X0)- similar to example 13B, or alternatively would guidance under example 13C be applied? The example 13C for property tax payable if an entity owns the land and building on 31 Dec concludes a provision is recognised at a point in time on 31 Dec. The fact pattern is in substance the same as the UK bank levy for a bank currently in operation.*

*Another example of a Bank levy where it is unclear on how the guidance under IAS 37.14Q should be applied is the EU / Single Resolution Fund levy. The EU / Single Resolution Fund levy has the features that a banking license needs to be held at say 1.1.X2. The calculation for the levy has several inputs including the last audited balance sheet which would need to be submitted on 31 January X2 (which would be the balance sheet as at 31.12.X0). There are other inputs including risk factors of the bank but also inputs from averages across banks where estimates need to be made. In this example it is unclear to members whether there are 2 separate actions (having a balance sheet and a license) or a single action (holding a license). A number of preliminary interpretations exist in applying the new guidance to the same scheme with a wide range of outcomes including :*

- *Recognise a provision for the annual amount on 1.1.X2 in the first quarter of X2. This approach is based on the interpretation that there is a single action in this case being the license held on 1.1.X2.*

- *Recognise a provision on 31.12.X0 or as soon a reliable estimate of the amount to be paid can be assessed (and upon transition recognise several years through equity). This approach is based on there being 2 separate actions, whereby the first action is met when the basis for the calculation of the amount to be made are available and the second action is met at the same time if management judges that there is no practical ability to avoid the second action, holding a banking license at 1.1.X2, so that the past event condition is met.*

- *Recognise provision progressively in X0 (and upon transition recognise several years through equity.) This approach is based on there being 2 actions and similar to example 13B the obligation accumulates over the annual reporting period.*

- *There could be other outcomes if the first trigger is considered to be when the audit report of the balance sheet is published which would only be issued in March 20X1.*

*Given the wide range of views as to how to apply the new guidance and the levies being widespread – we request additional application guidance which could be clarifications to existing examples, additional examples or some accompanying education guidance that make the outcome to these common levies clear. We believe it is critical that there is no diversity in practice. We understand the amendments are partially in response to feedback that recording the levy obligation relating to different periods in a single quarter is confusing to users of accounts and does not represent the performance of the entity in that period. We would recommend the new guidance results in recognising the levy evenly over the period which the obligation of operating as a Bank or holding a banking license relates.*

*Example 14*

*For example 14, we are not sure why the transfer condition is met. The entity can generate positive credit in the next year to offset its current year negative credit by manufacturing lower-than-average emission cars, without transferring any economic resource to another party. Although the positive credit may have a sale value, it's only an opportunity cost for the entity if it needs to use it to offset its negative credit. We would like for this to be clarified. In addition, if a provision should be made, it would be helpful to understand why this isn't accrued over time, as the sales are made.*

**Question 7—Other comments**

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

*We do not have any other comments.*