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(submitted via the IASB website)

12 March 2025

Dear Andreas,

AASB submission on IASB Exposure Draft/2024/8 Provisions—Targeted Improvements—Proposed amendments to IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*

The Australian Accounting Standards Board (AASB) welcomes the opportunity to provide comments on the International Accounting Standards Board (IASB) Exposure Draft 2024/8. In formulating these comments, the views of our Australian stakeholders were sought and considered. This included:

(a) consultation with the AASB's Financial Instruments Project Advisory Panel, comprising subject matter experts across a range of stakeholder groups;

(b) AASB's participation in a roundtable session arranged jointly by CA ANZ and CPA Australia to obtain the views of their members;

(c) discussion with the AASB's User Advisory Committee (UAC), comprising Australian users of the financial statements across a range of industries; and

(d) virtual meeting hosted by the AASB to share preliminary observations with members of the AOSSG Financial Instruments and Liabilities Working Group.

The AASB acknowledges the IASB's effort to make targeted improvements to IAS 37 to clarify recognition and measurement criteria.

Overall, our stakeholders agree with the targeted improvements related to the updated liability definition and clarification of recognition and measurement requirements. However, we recommend the following:

Question 1 and Question 2

(a) clarify that paragraph 14L relates to the recognition of the obligation only and does not preclude payments for goods and services to be considered for provision measurement purposes if they meet requirements in paragraph 40A;

(b) explain in the standard the interaction of paragraph 14L and 40A;

(c) clarify paragraph 40A to explain whether the IASB intended to allow the inclusion of the costs payable to third parties for the provision of services (such as legal costs) in the measurement of the provision; and

(d) explain in the Basis for Conclusions the reason for deleting paragraph 18.

Question 6

(a) amend the decision tree in B1 to require users to assess all three conditions (as per paragraph 14A of the ED) and include the relevant paragraph references in the decision trees; and

(b) clarify in the conclusion of Example 13C that paragraph 14P does not apply in this scenario and why the provision cannot be recognised over time.

Detailed recommendations and responses to the specific questions for respondents can be found in the Appendix to this letter. If you have any questions regarding this letter, please do not hesitate to contact me or Helena Simkova, Director (hsimkova@aasb.gov.au).

Yours sincerely,

Dr. Keith Kendall
Chair – AASB

APPENDIX

AASB responses to questions raised in the IASB Exposure Draft/2024/8 Provisions—Targeted Improvements—Proposed amendments to IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*

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?

Interaction between paragraph 14L, Example 7 and paragraph 40A

The AASB supports the proposed amendments relating to the present obligation recognition criterion and recognition requirements. However, we noted that some stakeholders found the interaction of the guidance in paragraph 14L, Example 7 and paragraph 40A unclear. The confusion mainly related to interpreting paragraph 14L and Example 7 as if they prohibit the inclusion of payments related to contracts for an exchange of services in the costs of provision. This appears to contradict the guidance in paragraph 40A, which states that expenditure required to settle an obligation comprises incremental costs and allocation of other directly related costs.

In addition, we are aware of the existing diversity in practice regarding whether the costs of external legal services should be included in the provision measurement.[1] Whilst we appreciate the proposed clarification of the costs to be included in the provision measurement in paragraph 40A, it is unclear whether this new guidance will reduce the diversity relating to the treatment of legal counsel services costs.

To improve clarity, the AASB suggests the IASB to:

(a) clarify that paragraph 14L relates to the recognition of the obligation only and does not preclude payments for goods and services to be considered for provision measurement purposes if they meet the requirements in paragraph 40A;

(b) explain in the standard the interaction of paragraph 14L and 40A; and

(c) clarify paragraph 40A to explain whether the IASB intended to include in the provision measurement costs payable to third parties (such as legal costs).

Removal of paragraph 18

Our stakeholders also did not understand the reasons for removing paragraph 18. Specifically, they considered the guidance on prohibiting recognising provision for costs that need to be incurred to operate in the future still relevant. The AASB suggests that the IASB explains in the Basis for Conclusions the reason for deleting paragraph 18.

[1] Paragraph 3.18 of the IASB Staff Paper Research Summary on Provisions, dated January 2020.

Consideration of other matters

The AASB noted that the new definition of liability in the ED is the same as the condition for the present obligation in paragraph 14(a).

> *14* A *provision* shall be recognised when three criteria are met:
>
> (a) an entity has a present obligation (legal or constructive) to transfer an economic resource as a result of a past event (paragraphs 14A–16);

Therefore, it is unclear why the wording in that paragraph does not refer to a liability, ie.

> (a) an entity has a liability (paragraphs 14A–16);

The AASB recommends that the IASB considers amending the wording of paragraph 14(a) to refer to liability as this would be consistent with the use of the definitions in other standards.

The AASB also suggests amending the existing heading "Probable outflow of resources embodying economic benefits" above paragraph 23 to "Probable transfer of economic resources recognition criterion" to reflect the change in terminology. Similarly, the existing heading "Reliable estimate of the obligation" above paragraph 25 could be amended to "Reliable estimate recognition criterion"**.**

To support the amendments proposed, the AASB recommends that the standard's objective refer to providing a balanced view of an entity's existing liabilities.

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?

The AASB supports the proposal to specify the costs an entity includes in estimating the future expenditure required to settle an obligation (paragraph 40A) subject to clarifications suggested in Question 1.

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?

The AASB did not receive any objections to the proposed discount rates, but many stakeholders noted the inconsistency of the proposal with the guidance on discount rates contained in other IFRS Accounting Standards (e.g. discount rates used for fair value calculation). Overall, the AASB supports the IASB's proposal, but recommends that the IASB clarifies that:

(a) the exclusion of a non-performance risk is an exception to the measurement principle as explained in paragraph 6.92 of the *Conceptual Framework*; and

(b) non-performance risks shall not be reflected in the expected cash flows of provisions.

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?

Transition requirements

Our stakeholders were concerned about the potential complexity introduced by proposing exceptions to be applied on two different dates. The proposal may increase the complexity as a change to a provision would be partially reflected through the comparative balance and partially through the current year balance.

The AASB recommends the IASB considers permitting both transition exceptions to be applied on the same date.

Effective date

The AASB has received feedback from stakeholders that they are concerned with the rate of changes coming into effect. When deciding on the effective date, the IASB may consider the timing of the application of these amendments and any other new requirements.

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?

The IFRS 19 *Subsidiaries without Public Accountability: Disclosures* have not been adopted in Australia. Therefore, we will not comment on Question 5.

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?

Decision Trees

The AASB observed that the ED's decision tree in B1 does not mandate the assessment of all three conditions (as per paragraph 14A) in all instances. For example, if an entity is unsure whether the first condition is met (i.e. unsure whether an obligation exists), the decision tree suggests going to B2. There is no instruction that the remaining two conditions (transfer and past event) must be assessed.

The AASB recommends the IASB to

(a) amend the decision tree in B1 to require users to assess all three conditions (as per paragraph 14A of the ED); and

(b) include the relevant paragraph references in the decision trees.

Examples

Regarding Example 2A, the AASB understands that the timing of legislation becoming "virtually certain" may differ based on the jurisdictional environment and practices. The AASB notes that in some jurisdictions draft law may not necessarily lead to enactment in all instances. The AASB is aware that the users of the Standard often initially refer to the illustrative examples for guidance. The AASB recommends that the IASB includes in Example 2A:

(a) clarification that the assessment of whether a draft law being enacted is "virtually certain" differs across jurisdictions; and

(b) reference to the application of judgements in making that assessment (paragraph 50 of IAS 37).

Pertaining to Example 13C, some stakeholders did not understand the conclusion and the reasons for recognising the provision at a point in time rather than over time. In addition, some stakeholders noted that the wording of the example should be changed to read "… price paid for the building adjusted ~~increased~~ by the change in a price index".

The AASB recommends the IASB to:

(a) update the conclusion statement to clarify that paragraph 14P does not apply in this scenario and that the provision cannot be recognised over time; and

(b) replace "increase" with "adjust" in the second sentence of the second paragraph to encompass all movements in valuation.