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Our ref : AdK
Date : Amsterdam, 3 May 2010
Re : Comment on your amended letter regarding the IASB ED Measurement of liabilities in IAS 37 (limited re-exposure of proposed amendments to IAS 37)

Dear members of the EFRAG Technical Expert Group,

The Dutch Accounting Standards Board (DASB) appreciates the opportunity to respond to your draft amended comment letter regarding your opinion on ED Measurement of liabilities in IAS 37 and additional comments on the working draft of the new Standard replacing IAS 37.

Your draft amended comment letter is an excellent summary of the main changes proposed and includes comments with which we concur. With six of the fifteen board members dissenting, the IASB should have reconsidered the publication of the exposure draft or at least have given a clear explanation why the expected value method provides better information than the best estimate that is currently applied. We wholeheartedly support your letter and therefore have decided to refer to your draft comment letter in our comment letter to the IASB.

Specific questions EFRAG

Questions to constituents on the definition and recognition criteria

Do constituents agree with the IASB proposal that when there is uncertainty management should assess whether an obligation exists without applying a probability threshold?

Answer DASB

The DASB does not support the IASB proposal to remove the probability threshold from the recognition criteria. The DASB is not convinced that the removal of the probability threshold for recognition would lead to decision-useful information for single liabilities. In combination with a probability-weighted measurement model instead of a best estimate approach, this could result in the recognition of a liability that is unlikely to result in cash outflows.

Do constituents believe that the principle and guidance on uncertainty in paragraphs 13 and following of the working draft is sufficient? If not, what type of additional guidance is needed?

Answer DASB

The DASB believes that the principle should stand on its own and whilst additional guidance and examples are useful, they should not replace the principle. Based on our experience of current practice, we believe that the principle on uncertainty in paragraph 13 and following is not sufficient, as described in paragraph 35 of your letter. We believe that IAS 37 would require more guidance on the definition of a “past event” especially for non contractual obligations, such as litigation. To avoid diversity in practice, we recommend including illustrative examples regarding litigation to clarify the general guidance of paragraph 13.

Do constituents believe that an entity should recognise a provision in a scenario as the one presented in paragraph 36 above (where the entity is uncertain about the existence of an obligation but will incur unavoidable cost)?

Answer DASB

Legal systems vary by country. In many countries it is not unlikely that a lawsuit is settled or legal expenses are made despite the company not having any liability from a past event. Also, when no amount is paid for settlement or any other payment is made, we would expect that some companies would still recognize a liability for future associated costs when a lawsuit is announced, in analogy of B7 of the working draft. Based on the IASB staff paper “liabilities arising from lawsuits” we however understand that no liability can be recognized in the above situation. We believe that costs for services to be received in the future (such as external legal fees and costs of in-house legal department) should be separately assessed and do not meet the recognition criteria of a liability unless the services have been received. Amounts to settle a claim should only be recognized once a formal agreement has been reached.

What are constituents’ views about constructive obligations?

Answer DASB

The DASB acknowledges that a constructive obligation exists when a valid expectation has been created on the responsibilities of the company. We believe however that by its nature a company would not settle all claims and it would be difficult to establish a pattern of past practice for such cases.

Questions to constituents regarding the proposed measurement requirements

What are constituents’ views on the use of expected value?

Answer DASB

We are in favour of the measurement of the liability at the best estimate and are not convinced that the measurement based on a probability-weighted average outflow will result in decision-useful information. For a large population of liabilities (mostly revenue related, such as warranties) the probability-weighted average outflow may be a reasonable basis to determine the best estimate, but for single liabilities, that basis will result in the reporting of an amount that by definition will not be the amount that

will be paid. We also believe that preparers will incur significant costs to determine the measurement of the liabilities on the proposed basis.

The measurement of a single liability, where one of the possible outcomes is a low-probability, high-outflow scenario will not result in decision-useful information.

In applying the probability-weighted average outflow, we believe that the risk associated with the liability should already be included in the estimation of the probability of outflows and not be added on top of the outcome of the probability-weighted average outflow. Unless more rationale for this accounting treatment and more guidance on how the risk should be included are provided, we recommend excluding the guidance on risk in the final standard.

We also disagree with the proposal that the value to fulfil a service obligation should include a profit margin when the obligation will be settled by provision of services of the entity itself.

Questions to constituents regarding the scoping out of onerous contracts that are within the scope of IAS 18 and IFRS 4.

Do you agree with the view expressed in relation to the proposed exception for the measurement of onerous contracts?

Answer DASB

Yes we agree.

Questions to constituents

Are there other aspects of the proposals in the ED that constituents believe it would be appropriate to address?

Answer DASB

The current version of IAS 37 also provides guidance for the accounting of contingent assets in paragraph 31 – 35 and 89 – 90. The revised IAS 37 will only include guidance regarding liabilities. With the proposed changes in measurement of liabilities, companies might assume that they can apply the same measurement criteria for contingent assets. The IASB should address the contingent assets either here or in another standard.

Yours sincerely,



Hans de Munnik
Chairman Dutch Accounting Standards Board