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Re: EFRAG DCL on IASB ED *Provisions—Targeted Improvements* (Proposed amendments to IAS 37)

Dear Wolf,
We are pleased to have the opportunity to provide our comments on the EFRAG DCL on the proposed amendments to IAS 37, *Provisions—Targeted Improvements,* issued by the IASB on 12 November 2024 (the 'ED').

Present obligation recognition criterion

The proposed amendments, among other objectives, aim to update the definition of liability in IAS 37 with that included in the *Conceptual Framework for Financial Reporting*.
We welcome the IASB's effort in this direction, however the proposed modification of the present obligation recognition criterion results in changing the timing and manner of recognition of some provisions. It also entails the withdrawal of IFRIC 6 *Liabilities arising from Participating in a Specific Market—Waste Electrical and Electronic Equipment* and IFRIC 21 *Levies*.
We are concerned that these proposals, which appear to have been designed primarily for levies, could have unintended consequences on the recognition of other transactions.
The aim of the proposed amendments is to clarify the current requirements, we support this objective, but we are not sure that the proposed amendments to the present obligation recognition criterion will achieve this goal. We are concerned that many application questions may arise from the new proposals, because the recognition of a provision is a very judgemental and debated issue. Thus, any change should be carefully considered.
Unfortunately, due to the specific timing of the ED consultation, we have been able to conduct only a limited field test with our stakeholders. Therefore, we suggest the IASB to

carry out a robust impact analysis before finalising these amendments. We are available to assist the IASB within our jurisdiction.

Having said that, we provide below a summary of the feedback received from our stakeholders.

It is not clear how to account for transactions that are currently within the scope of IFRIC 21 but not in the scope of IAS 37. This is because, in accordance with par 2 of IFRIC 21, the Interpretation addresses also the accounting for a liability to pay a levy whose timing and amount is certain. We suggest the IASB to clarify whether these liabilities are within the scope of the proposed amendments to IAS 37.

The ED proposes that when an entity has an obligation to transfer an economic resource only if it takes two (or more) separate actions, the past event condition is met when the entity has taken the first action (or any of the actions) and has no practical ability to avoid taking the second action (or all the remaining actions). This proposal introduces an high degree of judgement, because it is not clear which are the separate actions that triggers the obligation. Thus, we suggest the IASB to provide more guidance and illustrative examples.

The application of the notion of 'no practical ability to avoid' may introduce uncertainty. Take the example of a real estate (property) tax payable to the Authorities on holding property on 31 December each year. The reporting entity acquires the property during the year and estimates that the useful life is 20 years. In this case, the reporting entity is assuming that it will hold the property for the next 20 years. The question is whether the entity shall recognise a levy in the financial statements for the full 20-year period, or just for the following period (or for the number of years covered by the business plan).
Another example that could be influenced by this notion of "no practical ability to avoid" is the following. An entity must pay a levy each year to a fund up to a certain amount (eg 1 million). Every year the fund communicates the amount of the annual levy (eg 100K). The entity has no practical ability to avoid paying the total amount of 1 million, the only way to avoid the payment would be to cease operating. The question is whether the entity shall recognise a levy in the financial statements for the total amount due to the fund (1 million).

According to the ED, in those situations in which the entity has an obligation to transfer an economic resource only if a measure of its activity in a period exceeds a threshold, the action that meets the past event condition is the activity that contributes to the total activity on which the amount of the transfer is assessed. On this proposal we received mixed views from our stakeholders. Some stakeholders deem that this approach provides more relevant information, especially in interim Financial Statements, while others prefer the current approach of IFRIC 21, ie the obligation is triggered when the threshold is exceeded.

Some point out that this proposal could have unintended consequences on the accounting for carbon credits. This is because some entities now recognise a liability to acquire carbon credit only when the emissions exceed the allowed amount. According to the proposal it seems that a provision is recognised as soon as the entity starts emitting CO2, if the other recognition criteria are met.

Expenditure required to settle an obligation

Regarding the proposed amendments on the costs an entity includes in estimating the future expenditure required to settle an obligation, we agree with the proposals although our stakeholders ask for more guidance. They request to add practical examples of "other costs that relate directly to settling obligations" (para. 40A.b) specific to such liabilities. In fact, the example relating to the fulfillment of onerous contracts, i.e., depreciation charge for an item of plant or equipment used in fulfilling that contract, does not seem relevant to the fulfillment of a generic IAS 37 obligation (for example in case of litigation).

Discount rates

Regarding the proposed amendments on the discount rate, we support the IASB proposal, because it will reduce diversity in practice and would result in a more objective discount rate. However, we point out that the discount rate of provisions under USGAAP includes an adjustment for non-performance risk, which could imply a competitive disadvantage for IAS/IFRS companies.

Should you need any further information, please do not hesitate to contact us.

Yours sincerely,

Michele Pizzo

(Chair of OIC Board of Directors)

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