International Accounting Standards
Board (IASB)
30 Columbus Building
7 Westferry Circus
Canary Wharf
London E14 4HD
United Kingdom

11 March 2025

Dear Member of the Board,

Re: Exposure Draft 2024/8: Provisions-Targeted Improvements - Proposed amendments to IAS 37

BusinessEurope welcomes the opportunity to comment on the Exposure Draft Provisions-Targeted Improvements: Proposed amendments to IAS 37 (the ED).

We think that the timing of the publication of the document was unfortunate, corresponding as it did with the annual close of many major groups, and we would have appreciated an extension to the comment period in order to allow stakeholders to reflect on the proposals made.

Overall, we agree with the intention of the IASB which is, we believe, to align IAS 37 with the new Conceptual Framework. Although we think that this has been achieved in general, we think that there are some areas where some further adjustment to the drafting is required.

Our more detailed comments are included in the appendix to comment on the proposed amendments to IAS 28 (ED).

Yours sincerely,

Erik Berggren
Senior Adviser

APPENDIX

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 agree with the proposals to align the definition of a liability and the wording of the recognition criteria for a provision with the Conceptual Framework.

Nevertheless, some of the guidance for applying these definitions does cause us some concern.

It seems that the majority of the amendments proposed in paragraphs 14A to 16 are a re-articulation of the existing recognition requirements of IAS 37 combined with elements of the revised Conceptual Framework. With the exception of paragraphs 14O,14P, 14Q and 14R (see below), we find that this approach has led to the creation of potential confusion in some areas.

1. The notion of a “mechanism” is new. To some this implies a formal structure, to others a looser relationship of cause and effect. It may be helpful to provide clarification on this point to avoid mis-interpretation.

2. Paragraph 14C states that “The mechanism imposing a responsibility could be: (a) …; or (b)…”.

The use of the conditional leaves open the possibility that other mechanisms might exist. We think that the following requirements indicate that there are only two possibilities – legal or constructive mechanisms. To make this clear, it would be helpful to modify the first line of the paragraph as follows: “The mechanism imposing a responsibility <u>is either</u>: (a)…, or (b) etc.”

3. The proposals also introduce the notion of the entity's having “no practical ability to avoid discharging the responsibility” (paragraphs 14B, 14F and 14R). The situation of “no practical ability to avoid…” occurs if the entity obtains “the specific economic benefits or takes the specific action” (14B(c)) or “the economic

consequences of not discharging the responsibility are expected to be worse than the costs of discharging it" (14F(a)(ii)).

Paragraph 14F is intended to define the application of the notion of having "no practical ability to avoid discharging a responsibility" for both legal and constructive obligations. The drafting and position of paragraph 14F(a)(ii) imply that the condition of "the economic consequences for the entity of not discharging the responsibility are expected to be significantly worse than the costs of discharging it" is relevant only for a legal obligation, whereas we think that it is equally relevant to the case of a constructive obligation. If our interpretation is correct, this sub-paragraph should be integrated into the first line of paragraph 14F so that it applies to both types of obligation.

We note that the Conceptual Framework uses the words "economic consequences significantly more adverse" (CF para 4.34) and wonder whether it might not be better to use the same wording in the standard in order to maintain consistency.

4. Paragraph 14L endeavours to distinguish between an obligation to transfer economic resources and an executory contract. The drafting of this paragraph is somewhat confusing, particularly the first sentence which contrasts an exchange of economic resources with a transfer of same. Paragraph 4.39 of the Conceptual Framework illustrates clearly what is meant by an obligation to transfer economic resources and might usefully be incorporated in the standard.

The four paragraphs 14O,14P, 14Q and 14R are intended to define requirements which would allow threshold-triggered costs to be provided for on an accumulated basis over the relevant assessment period. We agree with this objective as it addresses one of the major problems caused by the approach adopted in IFRIC 21, which was to require the last trigger to be achieved before a provision was recognised and explicitly to exclude the notion of economic compulsion and going concern from the assessment, as stated in paragraphs 9 and 10 of the Interpretation. We think that the proposed requirements would achieve the intended proportionate accumulation of a provision.

One of the major adverse consequences of the adoption of IFRIC 21 was to prevent such accrual accounting, which was well established at the time and made economic sense, and we objected to its publication for that reason. On its introduction a certain amount of disruption was caused. However, that Interpretation has been effective for some ten years now, and entities have come to terms with its effects. On balance, we think that the benefits that will be generated by this amendment, including the consistency between the Conceptual Framework and this standard and a better representation of the economic effects, justify the disruption and confusion that will again be caused by this change. However, we think that the disruption caused justifies a longer implementation period than might otherwise be the case, since the impact will need to be carefully explained to the markets.

Other points: Examples

We think that Examples 11B-Refurbishment costs with a legislative requirement and 14-Negative low-emission vehicle credits both involve cases in which the entity has a choice between taking an action (carrying out an overhaul or producing vehicles to generate positive credits) which will avoid its being prevented from operating in a market or being restricted in its access to a market, respectively. In other words, both the examples illustrate cases of economic compulsion in which the consequences of not respecting the obligation are more adverse than those of complying. In the first case, no provision is made, in contrast to the second case where a provision is recognised. It would be helpful if further explanation were provided to clarify why these two examples result in very different outcomes.

Example 2- Contaminated land and constructive obligation states that the entity, as a result of its published policy, owes the responsibility for clean-up to the country's government, which acts on behalf of society at large. In view of the fact that the government has no environmental legislation in place, and therefore is presumably not concerned by environmental considerations, we wonder whether the responsibility can be owed to it. Is it not rather society at large to which the responsibility is owed, and that responsibility cannot practically be avoided because of the economic consequences of the entity's not respecting its own published policy? These consequences would not include fines but would include, for example, reputational damage leading to the entity's being shunned.

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 agree with this proposal, that is, the costs directly related to the obligation, consisting of both incremental costs of settling plus an allocation of other costs directly related to such obligations.

We think that it would be helpful also to provide examples of costs which could be allocated, such as in-house legal or management costs, if that is the case.

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 the proposals for the discount rate to be used. We note that the proposals require the entity to discount at a rate which reflects current market assessments of the time value of money (represented by a risk-free rate) adjusted to reflect risks surrounding the amount or timing of the expenditure required to settle the obligation, in as much as these risks are not reflected in the estimated cash flows. Non-performance risk must not be reflected in the discount rate. Paragraphs BC 81 and 82 appear to leave it up to the entity to decide whether the observed market rates are appropriate for its particular circumstances and to adjust if it deems it necessary. The resulting rate will therefore not be a risk-free rate if the entity judges that it is not appropriate to its case.

We note that an allowance for inflation is generally included in market rates. It may therefore be useful to provide further guidance on how to approach this and similar issues.

In some circumstances, the requirement to disclose the approach used to determine this rate (paragraph 85(d)) may be appropriate and should be a matter of judgement on the part of the management. On the other hand, in our opinion the disclosure of the discount rate(s), or even a range of rates, analysed by class of provision will not contribute any useful information for users of the financial statements.

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?

Paragraph 94B requires the effect of a change in accounting policy for determining discount rates to be allocated between the related asset and retained earnings. We think that the example of allocation contained in the June 2024 IASB staff paper might be used in this respect.

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.

As explained in our response to Question 1, we think that an extended implementation period of 18 to 24 months is justified for these amendments. We would suggest an effective date no earlier than 1 January 2028, with earlier adoption permitted.