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Dear IASB members,

Invitation to comment – Exposure Draft IASB/ED/2024/8 Provisions—Targeted Improvements: Proposed amendments to IAS 37

Ernst & Young Global Limited, the central coordinating entity of the global EY organisation, welcomes the opportunity to offer its views on the International Accounting Standards Board's (IASB or the Board) Exposure Draft IASB/ED/2024/8 *Provisions—Targeted Improvements: Proposed amendments to IAS 37* (the exposure draft).

We are generally supportive of the proposed amendments and believe they will enhance the accounting for provisions. However, we have identified certain areas where further clarification and/or guidance would be needed for better understanding of the proposed guidance.

The proposals for the present obligation recognition criterion are the most challenging aspect of the proposed requirements. We agree with splitting the first recognition requirement in paragraph 14(a) into the three conditions in proposed paragraph 14A. We believe this will aid understanding of the requirements. However, we believe that the proposed amendments to the present obligation recognition criterion are complex and may be difficult to apply in practice if more guidance is not provided. In particular, we believe the following issues should be given further consideration:

- For the obligation condition:
  - The use of 'obtaining specific economic benefits' within the proposed amendments may be confusing as it contemplates exchange transactions (see page 3)
  - It is unclear how the concept of 'economic consequences' should be applied in the case of an existing legal obligation (see page 4)
- For the past-event condition:
  - It is unclear how the guidance regarding the present obligation accumulating over time interacts with the guidance for an obligation that is triggered if an entity takes two (or more) separate actions, as they may both be relevant for the same fact pattern (see page 5),
  - The intent of the 'over time' concept in proposed paragraphs 14O and 14P on present obligations accumulating over time and threshold-triggered costs needs further explanation (see page 6),
  - Whether the concept of probability of cash outflow is included in proposed paragraph 14N(b) should be clarified, however we believe the probability assessment should only be part of requirements of paragraph 14(b) (see page 3)

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Moreover, we disagree with the proposed requirements in proposed paragraph 14F(a) that would require management's judgement of the economic consequences of not discharging the responsibility when a legal obligation exists.

Our comments in response to Question 1 (*Present obligation recognition criterion*) and Question 6 (*Guidance on implementing IAS 37*) illustrate our concerns about the proposed guidance on the present obligation recognition criterion.

Overall, we believe that further modification to the structure and wording of the proposed amendments is needed and would aid understanding:

- It is difficult to navigate the proposed, numerous paragraphs dealing with the present obligation recognition criterion. Including them as lettered paragraphs after paragraph 14 makes that section disproportionately long compared with other sections dealing with requirements of paragraphs 14(b) and (c) and adds complexity when navigating among the requirements. We believe it would be more helpful if the new extensive guidance on paragraph 14(a) was included in the standard as application guidance or as an element of the Implementation Guidance.
- We encourage the Board to avoid using similar wording for the three conditions of the present obligation recognition criterion (e.g., in relation to probability) when the meaning is not intended to be the same.

Our responses to the questions are set out in the Appendix to this letter. Should you wish to discuss the contents of this letter with us, please contact Michiel van der Lof at the above address, or on +31 6212 52634.

Yours faithfully

Ernst & Young Global Limited

Appendix – detailed responses to specific questions

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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?
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We agree with aligning the definitions in IAS 37 with those in the *Conceptual Framework for Financial Reporting* (Conceptual Framework). However, we note that it is not clear why the definition of constructive obligation is not identical to that in the Conceptual Framework. In addition, it is not clear why the words "will or may have to" are used in proposed paragraph 14N(b), they could be read as introducing a probability element. We understand that probability assessment is an element of the guidance in paragraph 14(b) (and subsequently, paragraphs 23 and 24). Some may also read proposed paragraph 14P to imply such an approach. We encourage the Board to clarify whether the concept of probability should be considered for the purpose of the present obligation recognition criterion. If the proposed wording of proposed paragraph 14N(b) is retained, we recommend that the Board provides more clarity on the paragraph's application (and/or illustrates with the examples).

We agree with splitting the first recognition requirement in paragraph 14(a) into the three conditions in proposed paragraph 14A; we believe this will aid understanding of the requirements. However, we point to our comments on Question 6 – *Guidance on implementing IAS 37* regarding the difficulties in application of the proposed requirements in the context of the real-life fact patterns. The comments illustrate the complexity around the proposed amendments to the present obligation recognition criterion.

<u>Obligation condition</u>

IAS 37 only applies to a subset of liabilities which arise from non-exchange transactions. Therefore, including the Conceptual Framework wording on obtaining 'specific economic benefits' within proposed amendments (such as proposed paragraph 14B(a)) is confusing as it contemplates exchange transactions. For example, it may by implied that a transaction involving the purchase of goods leading to trade payables should be within these proposed requirements, while they are outside the scope of IAS 37. In addition, it is unclear in what context the concept of 'obtaining economic benefits'

is used (i.e., whether they should be directly obtained from the event that is considered for IAS 37 requirements, or they could be linked to the wider entity's operations). For example, Example 11B concludes there is no past event as the entity has not obtained economic benefits (aircraft overhaul services), while it might be argued that the economic benefits to be considered should be those arising from operating the aircraft. Therefore, we suggest the Board revises the use of the term 'economic benefits' in the proposed amendments, or, if the proposed wording is retained, we recommend that the Board provides more clarity on its application.

We disagree with the conceptual basis in proposed paragraph 14F(a) and believe it is not clear how it should be applied:

- The concept of requiring an entity to compare economic consequences with the cost of discharging the obligation seems to contradict the concept of legal obligation. In our view, whether a legal obligation exists should not be the subject of management judgement as to whether the economic consequences of not complying with the law are significantly worse than the costs of complying (such as in Examples 1, 2A and 3). We recommend that the Board clarifies whether (and, if so, how) the existence of a legal obligation depends on the economic consequences borne by an entity and the impact of those two concepts on the obligation condition. We believe that the existence (i.e., recognition) of liability when there is a legal obligation is independent on economic consequences.
- If the current approach in proposed paragraph 14F(a) is retained, it would be beneficial to clarify in what circumstances the assessment of economic consequences would mean that an entity had no practical ability to avoid discharging a legal obligation. For example, considering the following scenarios:
    - The legislation offers two alternative approaches to settle the obligation (either to install smoke filters or to pay a penalty); the amount of penalty to be paid as of the reporting date is not significant.
    - The legislation imposes an obligation on an entity to install smoke filters and avoiding that obligation may result in significant economic consequences (e.g., the government forcing closure of the polluting factory).

  We believe that consideration of the economic consequences would result in the entity assessing that it had no practical ability to avoid discharging the legal obligation only in the second situation.
- Notwithstanding the bullet above, it is not clear why the economic consequences of not discharging the responsibility need to be 'significantly' worse than the costs of discharging it, instead of being at least equal or worse. Based on the current drafting, one might read the proposed requirements to imply that if the cost of discharging the responsibility is equal to, or slightly different from, the economic consequences of not discharging it, no provision should be recognised, even though there is still a legally enforceable obligation and the economic outflows will be the same as if the obligation were satisfied.
- The comparison of the economic consequences of not discharging the responsibility with the costs of discharging it may also be perceived as an element of provision measurement, rather than recognition.
- Furthermore, the concept of 'economic consequences' seems to incorporate detection risk into provision recognition, as entities might determine that not complying with the legal requirements will not bear significant economic consequences and no provision is recognised due to lack of obligation condition. Such an approach seems to contradict the one taken for example in IFRIC 23 *Uncertainty over Income Tax Treatments*.

As a result of the above, we recommend the Board reconsiders the requirements in proposed paragraph 14F(a).

Removal of restriction to recognise provision for future operating cost

We acknowledge that paragraphs 17-22 in the current version of IAS 37 were unclear and resulted in mixing the requirements for two conditions within the present obligation recognition criterion (the obligation and past-event conditions), which led the Board to decide to disentangle the present obligation recognition criterion as proposed in exposure draft. However, in our view, the concept that no provision should be recognised for costs that need to be incurred to operate in the future is fundamental to the appropriate application of IAS 37. We encourage the Board to make this objective explicit in the final version.

Transfer condition

We encourage the Board to clarify whether a provision is recognised if an entity is receiving resources of equal value, and if such resource receipt must result in asset recognition. We note that in the IFRS Interpretations Committee agenda decision, *Climate-related Commitments*, the Committee specifically mentioned that a provision is not recognised when an entity will receive something of equal value.

For example, consider an entity that has an environmental restoration obligation. The entity recognises a provision for such an obligation when it has yet to commence the restoration activities. However, it is not clear whether the entity should (or could) derecognise some (or all) of the provision if it engages a service provider to perform those activities in the future on the entity's behalf. Some read the exposure draft as suggesting that since the entity would receive a service of equal value from the service provider, the provision could be released. We acknowledge that it is not the Board's intention that any parts of a provision be released until the corresponding parts of the restoration activities are complete, but the current wording may be misread to imply such approach.

We recommend that the Board clarifies that the contractual arrangement with the service provider is accounted for separately from the obligation associated with the provision. In this context, clarifying to whom an obligation is owed and in what context an exchange is considered would be helpful.

An additional clarification could be made, for example, by extending Example 3, with the entity engaging an entity to help with restoration in a subsequent period. This comment also illustrates the need to clarify the meaning of an 'economic resources' concept, as noted in our previous comment on the 'obligation condition'.

Such a clarification may also be helpful in the context of Example 6, where the entity is the direct recipient of smoke filters (being part of property, plant and equipment) and, therefore, no provision is recognised for the costs of fitting smoke filters.

Clarification of the transfer condition would also be helpful in the context of the revised definition of costs to be included in the expenditure required to settle the obligation. For example, for a mine rehabilitation provision, the purchase and use of dedicated assets is necessary. It is not clear how such assets should be incorporated into the measurement of provision (through cash flows related to purchase or by inclusion of depreciation expense).

Past-event condition

We encourage the Board to clarify how the guidance in proposed paragraph 14O (present obligation accumulating over time) interacts with the guidance in proposed paragraph 14Q (obligation triggered if an entity takes two (or more) separate actions) as they may be both relevant for the same fact

pattern. The same suggestion applies to proposed paragraphs 14P (threshold-triggered costs) and 14Q. The exposure draft also does not propose guidance for how an entity would identify whether two or more actions are needed, nor whether a levy accumulates over time. We note that the requirements related to those paragraphs are complex and their application is not straightforward, as illustrated by our comments provided in Question 6.

We understand there may be differing perspectives on how to consider the 'over time' concept in proposed paragraphs 14O and 14P. It may be read it as a requirement to recognise a provision when an entity is proportionately liable, or it can be understood as spreading the expense over a specific time period. We encourage the Board to explain the intent of the 'over time' concept.

In the context of proposed paragraph 14P and its accompanying example, we note that, as currently worded, it may be read as also dealing with measurement of provisions and including points (a) and (b) after "that is, if" may further confuse. We also draw to your attention that, in the example accompanying proposed paragraph 14P, it is stated that "the action that meets the past-event condition (proposed paragraph 14A(c)) is generating revenue in the calendar year", which may be read as also referring to the measurement basis. In addition, the example is not clear whether an entity is liable for a levy if it is ceases to trade later in the year. We recommend the Board provide more guidance on the boundary between the recognition and measurement requirements.

We encourage the Board to provide guidance on the application of the proposed requirements in proposed paragraph 14R (going concern basis) as it is not clear whether:

- The phrase 'cease to trade' applies to the whole or part of an entity's activities and, therefore, it is unclear at what level within an entity and a group that paragraph should be applied.
- The requirements of the paragraph could be extended to a situation where there is lack of going-concern basis, and, thus, an entity should derecognise its provisions in such a situation.

We recommend that the Board clarifies the phrase 'practical ability'. The phrase is also used in other paragraphs, which may imply a different meaning from its intended use in proposed paragraph 14R. For example, it is unclear how the going concern assumption and ability of an entity to avoid certain rehabilitation activities, if it takes specific actions in the future, impacts the assessment of present obligation recognition criterion.

We also note that it is not clear whether proposed paragraph 14R applies to all present obligation recognition criterion paragraphs (proposed paragraphs 14A-14Q) or is an extension of requirements of proposed paragraph 14Q. We think that proposed paragraph 14R is better suited as a supplement to the requirements in proposed paragraph 14Q and should be part thereof.

We encourage the Board to provide guidance on the past event requirements stated in proposed paragraph 14N in the context of the 'no practical ability to avoid' concept discussed in the previous paragraphs. That concept is currently used in two contexts: (i) to avoid the settlement of the obligation (14B(c)); and (ii) to avoid the second (or subsequent) actions (proposed paragraph 14Q). Proposed paragraph 14N seems to use the same concept (supported by paragraph BC29), albeit no such wording is used in proposed paragraph 14N. We are concerned that without further clarification, the requirements could be misread. For example, for some levies that require one to own an asset on 31 December to be charged a levy, it may be implied that if an entity owns an asset throughout the whole annual reporting period and has no practical ability to dispose that asset before 31 December, the past event condition is met on the first day of the reporting period or, even, on the day the entity obtains the asset (whether by way of an acquisition, construction or otherwise).

We note that the discussion in the Basis for Conclusions on the exposure draft on the reasons for withdrawing IFRIC 21 *Levies* (paragraph BC14-BC17) refers to other IFRS Accounting Standards such as IFRS 2 *Share-based Payment*, IAS 19 *Employee Benefits* and IFRS 16 *Leases.* In our view, reference to standards that deal with reciprocal transactions as a basis to support the proposed changes to a standard on non-reciprocal transactions, such as levies, may be conceptually inconsistent. In addition, it may raise doubts about whether the changes proposed to IAS 37 should be extended to other types of transactions.

<u>Uncertainty about whether the present obligation recognition criterion is met</u>

We welcome the guidance on uncertainty about whether the present obligation recognition criterion is not met. We suggest that the Board amends the sentence in paragraph 16 stating "The evidence considered includes any additional evidence provided by events after the reporting period" as it may be misread in light of the requirements in IAS 10 *Events after the Reporting Period*. We recommend the wording be amended by deleting 'by events'.

<u>Restructuring</u>

We agree with the amendments made to the restructuring section. However, see our response to Question 7.

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 the proposal to specify what costs to include in the expenditure required to settle an obligation. We support the view that the amended standard (if finalised) would provide a consistent approach on the types of costs to be included in the expenditure for all provisions covered by it.

Proposed paragraph 40A includes the same description of costs that is currently included in paragraph 68A, but without consistent examples. We encourage the Board to include this definition of costs in the definitions for IAS 37 (included in paragraph 5) to avoid confusion.

The current and proposed versions of IAS 37 do not provide guidance regarding whether any cash recoveries directly linked to a provision should be reflected in the cost included in estimating the future expenditure. For example, in the mining industry, it is possible to reprocess tailing dam waste in a way that it generates cash flows before any restoration activities are to be undertaken (for example, gold is extracted from waste). Those reprocessing activities could influence the accounting for decommissioning provision either by: (i) impacting costs of the decommissioning activities (there will be less waste to process in the future); or (ii) not recognising a portion of the provision (as an entity has practical ability to avoid decommissioning a portion of the waste it currently has by its future actions). We encourage the Board to address this issue in the final amendments.

We note that the proposed amendments to include only direct costs in an estimate of the future expenditure required to settle an obligation raise questions about how to measure a liability when there are no such costs, even though an entity is obliged to transfer economic resources. For example, in Example 14, an entity recognises a provision for the best estimate of the expenditure required to obtain and surrender enough positive credits to eliminate the negative credits due for the reporting period. Management expects the entity to generate the positive credits itself (thus avoiding the need to buy them) by manufacturing in the next reporting period cars with average fuel emissions lower than the government target. If an entity expects to manufacture and sell cars at a profit, it does not incur any additional costs related to the generation of positive credits. In such a situation, should a provision be measured by reference to the incremental costs of settling the obligation (i.e., nil) or by reference to the value of positive credits which will need to be surrendered?

To support these proposed amendments further, we also encourage the Board to clarify the measurement objective. Specifically, to clarify whether the measurement requirements (in paragraphs 36 and 37) are intended to represent a cost (amount to pay to settle the obligation) or a market-based approach (amount to transfer the obligation), or how those two approaches interact with each other if the current requirements in IAS 37 are retained.

> 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 proposed discount rate requirements and the related proposed disclosure requirements. However, we note that, as there is no application guidance on how an entity determines an appropriate risk-free rate, it would be useful to state the objective for using such a rate. As in some jurisdictions, determination of a 'pure' risk-free rate may not be feasible, entities determine such rate by using a proxy rate (as noted in paragraph BC82). Providing the objective would allow an entity to determine an appropriate approximation. As designation of the risk-free rate is already present in other IFRS accounting standards, the Board could leverage on the guidance provided therein.

In addition to an objective, we believe guidance on how an entity determines a risk-free rate would be helpful. For example, paragraphs BC71 and BC82 in the exposure draft refer to "the current yield of a low-risk government bond" as a proxy. This might raise questions about how to determine whether a government bond is low risk and what to do if the risk is not low. In addition, it may not be clear how an entity would adjust the yield to compensate for differences between the duration and liquidity of the investment and those of the provision if the available government bonds are shorter in duration

and the liabilities are expected to be settled many years in the future. If such an adjustment is needed, the rationale should also be clarified, (e.g., as part of an objective).

While the proposed requirements are clear that non-performance risk would be excluded from the discount rate, it is not clear whether an entity can, instead, include it within the expected cash flows. If the IASB's intention was for it to be excluded from the measurement entirely (both cash flows and discount rate), we believe that needs to be explicitly stated in the final amendments.

We also note that the definition of 'non-performance risk' is not clearly understood. To be clear that references to non-performance risk are intended to have the same meaning (and to ensure the effects of non-performance risk are appropriately excluded), we believe it would be helpful to cross-refer to paragraphs 42-44 of IFRS 13 *Fair Value Measurement*.

The reference in paragraph 47 of the exposure draft to "rate or rates" in relation to the measurement of a provision is not clear as to whether it refers to the use of different rates by an entity that has operations in different countries, for example, or if it is intended to imply that an entity can (or should) use forward curves. To avoid confusion and encourage consistency, we encourage the Board to clarify its intention.

We encourage the IASB to take the opportunity to address the issue of including or excluding inflation expectations when estimating the future expenditure required to settle a present obligation and if a nominal or real discount rate should be used. IAS 37 does not indicate whether the discount rate should be a real discount rate or a nominal discount rate (although a real discount rate is referred to in Example 2 of Appendix D to IAS 37, which illustrates the narrative disclosure for decommissioning costs). Depending on the approach taken, the value of the discount rate will differ. Although both approaches would produce the same figure for the initial present value of the provision, the effect of the unwinding of the discount could be different in each case. Therefore, this would impact the allocation of the year-on-year change in provision between operating costs (assuming the original provision was treated as an operating expense) and finance charges.

Lastly, we think it would be useful to provide guidance on how risks specific to the liability impact the determination of the discount rate (similar to the discussion in paragraph BC68(b)). We note there are often questions and misunderstandings about whether such risks increase or decrease the discount rate.

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.

Question 4—Transition requirements and effective date
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

We agree with the proposal for retrospective application (subject to two exceptions) of the amended standard.

We agree with the proposed requirements for the cost exception. These are in line with the approach taken for the amendments to IAS 37 made in 2020 to specify the costs an entity includes in assessing whether a contract is onerous.

With respect to the discount rate, we agree with the simplified approach for changes in discount rate to apply the new guidance at the transition date (as defined in the proposed standard). However, we believe it would be helpful to provide an example of how an entity would determine the split between retained earnings and the related asset to ensure appropriate implementation of the approach proposed. In addition, it is not clear whether the use of 'current' in paragraphs 94E(i) and (ii) is intended to mean 'as at the date of transition' or 'at the reporting date in the first year of amendments' application'. We encourage the Board to specify this in the final amendments.

Effective date

We agree with the IASB's proposal to determine an effective date for the amendments that would allow for sufficient time to prepare for the new requirements. We believe that entities may find adoption of the revised requirements challenging and we encourage the Board to consider this in setting the effective date. Despite this, we also suggest that earlier application option should be permitted.

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 agree with the Board's proposal to require disclosure of the discount rate (or rates) used in measuring a provision, but not to require disclosure of the approach used to determine that rate (or those rates) for entities applying IFRS 19 *Subsidiaries without Public Accountability: Disclosures.*

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;

Question 6—*Guidance on implementing IAS 37*
(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 welcome the proposed extended *Guidance on implementing IAS 37*. We believe the proposed decision trees are helpful for understanding the thought process when applying the proposed requirements. We think that adding references to the relevant paragraphs would also help users to navigate through the requirements.

In relation to the proposed updates to the illustrative examples, we note the following:

- Example 1

  This example states that the warranties provided by the entity are not sold separately. We understand this is intended to imply that the entity has an assurance-type warranty, such that IAS 37 applies. While we agree that separate sale of a warranty would make it clear it was a service-type warranty under IFRS 15, the reverse is not true. There are several factors that need to be considered such as the length of the warranty, and the legal requirements in the relevant jurisdiction. To avoid this assessment, which requires judgement, we recommend that the Board revises the facts in the example to, instead, explicitly state the entity has concluded it has an assurance-type warranty.

- Example 2A

  We suggest a slight wording change to the transfer condition box from "to provide clean-up services" to "to perform clean-up activities".

- Example 6

  We suggest clarifying why the guidance in proposed paragraph 14Q (obligation triggered if an entity takes two (or more) separate actions) is not applicable in the analysis.

  We suggest the past-event condition box analysis be split into similar obligations to the transfer condition box and appropriate rationale be added to each type of obligation. For example, in the scenario (b), there is positive tick mark in the past-event condition box, while the entity has not received any benefits in the form of smoke filters. The split of the past-event condition will clarify the basis for the conclusion reached that a provision is not recognised for the costs of fitting smoke filters (as not it is not clear whether it is because transfer, past-event or both conditions are not met).

  With regard to variation (a) of the example, we suggest adding the reference to paragraph 11 of IAS 16 in the statement "*In buying and fitting the filters, the entity will pay cash and receive property, plant and equipment in exchange.*" Smoke filters do not generate economic benefits on

their own and their recognition as part of property, plant and equipment could be challenged. In addition, if the smoke filters were recognised as an expense, then the outcome of the analysis in variation (b) of the past-event condition would be different and lead to provision recognition. This comment also illustrates the need for more clarity regarding the concept of 'economic benefits' as noted in our response to Question 1.

- Example 7

  In the obligation condition box, we believe it would be helpful to clarify why the entity does not have a responsibility to the regulator for retraining, to comply with the financial services regulation. In addition, this example illustrates that no provision is recognised for the costs to be incurred to operate in the future and highlights the need to state this objective, as noted in our comment to Question 1. Applying this example to a situation where an entity carries out restructuring activities for its own benefit illustrates that this concept may be applicable in other situations as well.

- Example 11B

  We suggest supplementing the scenario by stating the consequences for the airline if it does not overhaul its aircraft in accordance with the legislative requirement.

  In the past-event section, it could be clarified why the guidance in proposed paragraph 14Q is not applicable, where the first action is owning and operating an aircraft, and the second action is regular overhaul services at the three-year interval. In addition, application of proposed paragraphs 14O and 14P may seem as appropriate in the fact pattern provided. Therefore, we recommend the Board uses this example as an opportunity to explain differences in understanding the requirements in proposed paragraphs 14O, 14P and 14Q.

  Similar to the comment to Example 6, we suggest adding the reference to IAS 16 in the transfer section as it would emphasise the reasoning behind not meeting recognition requirements.

- Example 13A

  This example could clarify that generating revenue in the period ending 31 December 20X0 is the legislative requirement and, therefore, constitutes an action to be taken by an entity, not merely a reference to a measurement basis to determine the expenditure to be made. That would highlight the difference between past-event condition being part of present obligation criterion and the reliable estimate of the amount of the obligation.

- Example 13B

  As noted in our response to Question 1, to ensure consistent application, we believe that further clarification is needed on how an entity determines whether one action or two actions are needed and whether a levy accumulates progressively. Example 13B should clarify that the operating as a bank in the current reporting period is a legal requirement necessary to require payment of the levy. Currently, it may be understood that this is based on the entity's management assessment rather than a fact based on the legislation and, as a result, the requirement to take two actions may be questioned. In addition, it is not currently clear why the guidance in proposed paragraph 14Q (obligation triggered if an entity takes two (or more) separate actions) is used to

conclude on the past-event condition and existence of two actions, while in a similar fact pattern in Example 13C it is concluded that there is only one action for the past-event condition.

We believe the proposed requirements would be better illustrated if the example provided analysis of the proposed requirements in an interim period as well as the annual reporting period. Based on the fact pattern, the provision is recognised at the end of the reporting period irrespective of the entity's previous actions. If the requirements were explained in the context of interim reporting, entities might better understand the consequences of identifying more than one action, the intention of the over-time concept and be better able to contrast examples.

- Example 13C

  It would be helpful to clarify why the only action needed to meet the past event criteria is the property ownership on 31 December of a given year. However, we note that, arguably, holding an asset on 31 December is a consequence of obtaining it at an earlier date. It is, therefore, unclear why a different analysis and conclusion applies in Example 13C compared to Example 13B. We, therefore, encourage the Board to clarify this in the final amendments.

  We believe the proposed requirements would be better illustrated if the example provided analysis of the proposed requirements in an interim period as well as the annual reporting period. Based on the fact pattern, the provision is recognised at the end of the reporting period irrespective of the entity's previous actions. The inclusion of both (interim and year-end) points in time would better illustrate the proposed requirements as, in our view, the outcome of the analysis would be different for those two moments.

- Example 15

  As noted previously in our comments, we think the notion that no provision is recognised for costs to be incurred to operate in the future is important. Example 15 illustrates that concept and highlights the need to state this objective. In addition, the IFRS Interpretations Committee stressed the importance of the concept in its agenda decision in April 2024 on *Climate-related Commitments*, on which Example 15 is based.

- All examples

  The use of phrases 'management judges' and 'management assesses' may be misread and cause confusion. Reading the examples, it seems that use of 'management assess' relates to identifying requirements of legislation/regulations or contracts (e.g., Examples 1, 2A and 3), which should be objective, while the word 'assess' suggests a subjective approach. The semantic difference between the words 'to assess' and 'to judge' may seem very nuanced, especially for non-English users of IFRS Accounting Standards – this may lead to misunderstanding and misapplication of the examples. We, therefore, encourage the Board to consider using phrases such as "the legislation [or contract] specifies that..." to avoid confusion with judgements.

Question 7—Other comments
Do you have comments on any other aspects of the proposals in the Exposure Draft?

Non-performance risk in business combinations

We agree with the proposed amendments to IFRS 3 *Business Combinations* to remove an exception to the initial recognition principle for liabilities and contingent liabilities in scope of IAS 37. The IAS 37 amendments would eliminate the inconsistency between the IFRS 3 recognition principle and IAS 37 recognition criteria, making the current exception in IFRS 3 redundant. However, we note that discount rate guidance, as proposed by the IAS 37 amendments, may influence the accounting for business combinations. IFRS 3 requires measurement of acquired liabilities at fair value as of the acquisition date. IFRS 13 states that the fair value measurement of a liability contemplates the transfer of the liability to a market participant at the measurement date. The fair value of a liability also reflects the effect of non-performance risk. The proposed amendments to IAS 37 eliminate the inclusion of non-performance risk in the discount rate used to calculate the present value of liability. The difference in measurement approaches between the date of initial recognition of a liability acquired in a business combination and its subsequent measurement may result in a 'day 2' loss. We suggest that the Board addresses that issue as part of the IAS 37 project.

Interaction between the proposed amendments and IAS 19 *Employee Benefits*

Proposed paragraph 80A(a) (along with Examples 5A and 5B and BC50-BC51) discusses restructuring provisions noting that these can include a "statutory, contractual or constructive obligation to pay termination benefits to employees". The proposed changes could be read to imply that such an obligation to pay termination benefits to employees would be within the scope of (the amended) IAS 37, rather than IAS 19 *Employee Benefits*. However, IAS 19.159-171 provides specific requirements for termination benefits and IAS 19.165(b) specifies that IAS 19 would apply when a restructuring provision is recognised under IAS 37. We encourage the Board to clarify the interaction between proposed amendments to IAS 37 and IAS 19.