RAAD VOOR DE JAARVERSLAGGEVING
Dutch Accounting Standards Board

DASB secretariat:
Mercuriusplein 3, 2132 HA Hoofddorp
Postbus 242, 2130 AE Hoofddorp

Tel: +31 (0)88 4960 391
secretariaat@rjnet.nl
www.rjnet.nl

IFRS Foundation
Columbus Building 7
Westferry Circus
Canary Wharf
London E14 4HD
United Kingdom

Our ref:	RJ-IASB 520
Direct dial:	+31 (0)88 4960391
Date:	Hoofddorp, March 14, 2025
Re:	DASB Comment letter on Exposure Draft ED/2024/8 'Provisions – Targeted Improvements Proposed amendments to IAS 37'

Dear members of the International Accounting Standards Board,

The Dutch Accounting Standards Board (DASB) appreciates the opportunity to provide a response to the Exposure Draft ED/2024/8 'Provisions – Targeted Improvements Proposed amendments to IAS 37', issued by the IASB in November 2024.

The DASB welcomes the initiative to provide feedback on the proposed amendments as well as input on the amended and additional illustrative examples included in the guidance on implementing IAS 37. We believe that the amendments address many practical application issues and potential areas of confusion and will benefit both preparers and users of financial statements.

The DASB in general supports the targeted improvements as proposed by the IASB. Within the scope of this project, we have the following concerns and remarks:

- The DASB notes that, while the improvements do clarify the accounting for specific issues such as levies, the application of the proposed targeted improvements in relation to the recognition of provisions is complex and may be difficult to apply in practice. It is understood how the improvements might assist in providing more reliable and transparent information where they relate to specific transactions such as levies. However, it is unknown what new issues or consequences the improvements might create when applying them to other types of transactions, which we believe to be a serious concern. The DASB suggests that further outreach and field testing be concluded to mitigate the risk of unintended consequences when applying the improvements in practice.
- The DASB notes that one of the identifiable unintended consequences would be the application of the proposed amendments to transactions which may have limited

guidance (such as contingent consideration payable). It is suggested to clarify the scoping of the standard in this regard.

- The DASB believes that the proposed targeted improvements related to the guidance on the practical ability to avoid an action would benefit from additional illustrative examples demonstrating when an entity has the practical ability to avoid an action and therefore will not recognise a liability.
- The DASB notices an area which may require further clarification. In a scenario whereby an entity has a possible fine, the entity determines that if certain costs are incurred (such as investigative costs, legal fees, or in-house salaries of legal staff etc.), it is probable that the fine will not materialise. Given that these costs may be seen as incremental and/or directly associated with the fine, would there be a minimum threshold to consider the costs to recognise as a provision being the lower of the actual fine and the costs to avoid the fine. Or conversely, should the transaction be looked at as a single unit of account, and if the transfer of economic resources is not considered to be probable (albeit due to incurred costs to challenge the fine) then an entity would not provide for any costs. The DASB suggests the application thereof be clarified, possibly be means of an illustrative example.
- The DASB has noted that the application of a risk-free rate that does not take performance risk into account is specific to IAS 37. It is expected that this creates day 2 accounting differences for example when a provision is reclassified to a financial instrument or obtained via a business combination as the discount rate applied is different. The standard should clarify how these impacts should be accounted for.

We have included our detailed response to the Exposure Draft questions in Appendix 1.

If you have any questions, please do not hesitate to contact me.

Yours sincerely,

drs. G.M. van Santen RA
Chairman Dutch Accounting Standards Board

Appendix 1 : Responses to Exposure Draft questions

Appendix 1: Responses to Exposure Draft questions

Appendix 1 – IASB – Responses to Exposure Draft

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?

Conceptually, the DASB generally agrees with the proposals to clarify the present obligation recognition criterion in IAS 37. Given the improvements, especially as they relate to the accounting for levies, the DASB supports to repeal the guidance in IFRIC 6 and IFRIC 21 in favour of the targeted improvements. However, we have identified certain areas in which further clarification may be necessary:

- ***Complexity in the application of the targeted improvements***

The DASB notes that the targeted improvements in relation to the recognition of a provision introduce a more complex framework to recognise provisions. It is understood how the improvements might assist in providing more reliable and transparent information when applied to specific transactions such as levies. However, it is unknown what new issues or consequences the improvements might create when applying them to other types of transactions, which we believe to be a serious concern. It is suggested that further outreach and field testing be initiated in this regard to identify any consequences prior to publishing the improvements.

- ***Assumption that an entity has no practical ability to avoid taking an action if it prepares its financial statements on a going concern basis (paragraph 14R).***

The paragraph describes a situation that an entity has no practical ability to avoid taking an action if it could only do so by liquidating the entity or ceasing to trade. In this instance, the paragraph states that if an entity's financial statements are prepared on the going concern basis, it is assumed that an entity does not have such practical ability. The question arises as to whether this has been considered in a situation whereby the entity *prepares its financial statements on a going concern basis but the provision might relate to a discontinued activity or an operating subsidiary within the context of a consolidated group. The question also arises on how this aspect should be considered in a situation where an entity has several business activities and a specific business activity can be discontinued without a going concern issue for the entity as a whole. We suggest the paragraph to be drafted clearer in this regard.*

Consider the example whereby a financial institution is obliged to pay an annual levy if it continues to operate. One may interpret this paragraph to mean that since the financial institution prepares its financial statements on the going concern basis, they might need to provide for all potential levies for the periods that the financial institution is expected to operate. It is suggested that the IASB make a clarification in the application of this paragraph.

- ***Completeness of legal obligation requirement (paragraph 14F(a)(ii))***

The paragraph indicates that the economic consequences of failing to fulfill or discharge a legal obligation must be significantly worse than the costs of fulfilling it for the obligation condition to be satisfied. As currently worded, there is a risk that this requirement may fail to include all provisions that should be recognised. Consider a scenario where the economic consequences of not fulfilling a legal obligation are anticipated to be less or equal to the costs of fulfilling it. A certain reading of paragraph 14F(a)(ii) may result in the interpretation that the obligation condition would not be satisfied, and no provision should be recognized. However, we believe the obligation condition should be satisfied, and the associated provision could then be measured based at the lowest cost.

- ***Additional guidance on practical ability to avoid discharging a responsibility (paragraph 14F)***

Since 'practical ability to avoid' is one of the factors considered in the recognition of all liabilities under IAS 37, it would be beneficial to include additional examples where an entity has the practical ability to avoid discharging a responsibility. In practice, there might be confusion as to when an entity may have the ability to avoid a responsibility or an actual settlement of a responsibility. Therefore, an example included in the application guidance might assist in this area.

- ***Scope of the amendments and impact on other liabilities***

In the process of forming our views on the proposed amendments, we also considered their scope and identified potential specific unintended impacts. Some preparers might apply the amendments to areas such as accounting for royalty payables, trailing commission payables and contingent consideration payable for purchases of assets because of the lack of guidance in these areas. Our view is that the application of the guidance to these areas might result in unforeseen consequences, and therefore we reiterate the need for further outreach and field testing of the application of the targeted improvements. Alternatively or in addition the Board should make a clarification about this in the Basis of Conclusions.

- ***Illustrative guidance of when the criteria are not met (paragraph 14T))***

  The paragraph describes a situation whereby an entity has an established pattern of past practice but an obligation does not arise. The DASB believes that it would be beneficial to include an illustrative example to clarify in what kind of situations this may arise. The distinction seems to be an area that needs clarification as evidenced by the IFRIC discussion on Negative Low Emission Vehicle Credits.

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 DASB broadly agrees with this proposal. We believe that more application guidance and illustrative examples will be beneficial in explaining the guidance. Furthermore, the DASB notices an area which may require further clarification as follows:Paragraph 40A indicates that the costs to include in the measurement of a provision are both the incremental costs of settling the obligation as well as an allocation of other costs that relate directly to settling obligations of that type.

Consider a scenario whereby an entity has a possible fine. The entity determines that if certain costs are incurred (such as investigative costs, legal fees, or in-house salaries of legal staff etc.), it is probable that the fine will not materialise. Given that these costs may be seen as incremental and/or directly associated with the fine, would there be a minimum threshold to consider the costs to recognise as a provision being the lower of the actual fine and the costs to avoid the fine. Or conversely, should the transaction be looked at as a single unit of account, and if the transfer of economic resources is not considered to be probable (albeit due to incurred costs to challenge the fine) then an entity would not provide for any costs. The DASB suggests the application thereof be clarified, possibly be means of an illustrative example.

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. However, there are a few related issues that we believe should be addressed to prevent unintended consequences – the DASB identified inconsistencies within IFRS 3 but also noted an inconsistency within IFRS 9:

1. ***Interaction of IAS 37 with the different measurement bases in IFRS 3 and IFRS 9***

The proposed amendments to IAS 37 require provisions to be measured using a discount rate that excludes the entity's non-performance risk. This approach may differ from the fair value measurement basis for liabilities as required under IFRS 3 and IFRS 9, where non-performance risk is typically included in the discount rate. This difference in discount rates introduces an arbitrary difference in the measurement of liabilities in the following scenarios:

a. *Provisions acquired as part of a business combination are initially measured at fair value in accordance with paragraph 18 of IFRS 3. However, subsequent measurement under IAS 37 requires excluding non-performance risk from the discount rate. This results in an arbitrary change in the carrying amount of the provision. The DASB maintains that there might be options in treating this difference: added to the carrying amount of a related asset (as per IFRIC 1),recognised directly in the statement of profit or loss or a specific measurement exception is provided for within IFRS 3 in this area. However, this is not clear from the current guidance.*

b. *An entity recognising a provision for a litigation claim measures the provision in accordance with IAS 37 by applying a discount rate that excludes its non-performance risk. When the litigation parties agree on settlement terms by means of a contract, the provision transitions into a financial liability to be initially measured at fair value under paragraph 5.1.1 of IFRS 9. The ensuing change in discount rate may result in an arbitrary change in the carrying amount of the liability. It is also unclear how this corresponding adjustment should be accounted for in this case. The DASB suggests that the difference would be recognised within profit or loss.*

It is suggested that the IASB should clarify how IAS 37 interacts with these other standards in relation to the discount rate.

Furthermore, the DASB suggest to provide clarity in relation to paragraph 47A on whether non-performance risk can be adjusted in the cash flows for measuring a provision.

The DASB agrees with the proposed disclosure requirements.

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?

It is noted that there is no option to apply a full retrospective approach for the improvements in relation to the measurement of a provision. The DASB considered that there may be benefit in also allowing a full retrospective approach for those preparers that believe that a full retrospective approach could result in more relevant information.

In addition, the transitional provisions for costs included in the measurement and the application of the discount rate are different. The DASB suggests that these may be aligned to ease the transition. The DASB also notes that in relation to decommissioning liabilities, the requirement to apportion the adjustment between the related asset and retained earnings might be difficult to apply. The DASB suggests that the IASB consider providing further examples to illustrate how this transition requirement should be applied or to consider to allow or require adjusting the carrying amount of the related asset for the entire difference and require an impairment test for the asset, when needed.

We do not have additional comments on factors to be considered in assessing the time needed to prepare for the proposed amendments.

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 DASB agrees and supports the proposed amendments to IFRS 19 to include 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.

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?

The DASB thinks that the proposed decision tree and examples are helpful in understanding the proposed requirements and their application. Nevertheless, we believe that there should be an introductory paragraph or box for each example outlining the objective of the example and what paragraph specifically in IAS 37 or other IFRS Accounting Standard they relate to.

However, DASB has noted some general observations as follows:
- the references to other standards or paragraphs within the examples in IAS 37 are not complete;
- add considerations for interim periods in examples where this is relevant;
- delete topics that are not relevant for this standard (for example 'terminations penalties');

The DASB does not have any further comments.

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

It has been noted that no effective date has been included in the Exposure Draft. The DASB suggests that sufficient time be provided, especially for entities that may have large impact by virtue of them having large levies that are currently accounted for within the scope of IFRIC 21.

The DASB does not have any further comments on other aspects of the Exposure Draft.