IOSCO

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Our Ref: 2025/O/C1/IASB/CM/190

RE: Provisions – Targeted Improvements, Proposed Amendments to IAS 37

Dear International Accounting Standards Board ("IASB" or "the Board") Members,

The International Organization of Securities Commissions ("IOSCO") Committee on Issuer Accounting, Audit and Disclosure ("Committee 1") thanks you for the opportunity to provide its comments on the Exposure Draft: *Provisions – Targeted Improvements, Proposed Amendments to IAS 37.*

IOSCO is committed to promoting the integrity of the international markets through promotion of high-quality accounting standards, including rigorous application and enforcement. Members of Committee 1 ("members" or "we") seek to further IOSCO's mission through thoughtful consideration of accounting and disclosure concerns and pursuit of improved transparency of global financial reporting. The comments we have provided herein reflect the general consensus among the members of Committee 1 and are not intended to include all comments that might be provided by individual securities regulator members on behalf of their respective jurisdictions.

General Observations:

Overall, we support the IASB's objectives to align the requirements in IAS 37 with the IASB's *Conceptual Framework for Financial Reporting (2018)* (Conceptual Framework) and make other targeted improvements to IAS 37's requirements. We believe that these proposed improvements to IAS 37 are important steps to reduce diversity in practice when applying IAS 37 and provide more comparable and understandable information for users of financial statements. We believe addressing application questions that represent long-standing challenges in applying IAS 37 complemented by additional disclosure requirements help achieve those objectives. The scope of the application questions the Board is seeking to answer represents our understanding of some challenges that presently exist when applying IAS 37.

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Furthermore, we generally support the approach taken by the Board to address application questions that can be answered using the principles that underlie IAS 37 and to provide guidance by applying those principles with illustrative examples.

However, we observe that the proposed amendments, although attempting to align the definition of a liability in IAS 37 to the Conceptual Framework, present a series of criteria (three), conditions (three), and sub conditions (approximately ten), which could benefit from either simplification or at minimum increased clarity and additional supporting guidance. Although these proposals may be intended to support consistent application, the complexity inherent in such proposals risks the opposite outcome. Given this risk, we strongly encourage the IASB to conduct field testing of the proposed amendments to identify application challenges and avoid unintended consequences. As described in our responses below, we believe additional specificity, clarity and guidance in certain areas should be considered to promote consistent application of the proposed requirements.

Responses to the Board's Questions:

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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Response:

Members are generally supportive of the proposed targeted improvements to IAS 37 but share some concerns over the intricate nature of the proposed amendments. We note that the proposed amendments to the present obligation recognition criterion introduce three conditions to determine when an entity has a present obligation and that each of these conditions has additional requirements that also need to be met. These additional requirements, while grounded in the Conceptual Framework, are intricate and therefore may result in unintended consequences and/or misapplication of the proposed amendments. The proposed decision tree and the proposed illustrative examples provide helpful clarification of the proposed requirements. However, we encourage the IASB to expand the proposed illustrative examples to explicitly identify and refer to *each* requirement an entity needs to evaluate to determine if a provision needs to be recognised. We also encourage the IASB to include additional examples in IAS 37, as it has done for proposed paragraph 14P. We believe that the examples that are part of IAS 37 and the illustrative examples that accompany the standard should be presented at a level of detail that is commensurate with the specificity of the proposed requirements to support consistent application of the proposed amendments to IAS 37.

Additionally, we have the observations below regarding specific areas of the proposed present obligation recognition criterion (14A).

Obligation condition (paragraph 14B)

We note the proposed amendments use the term "specific" in multiple instances, such as in paragraphs 14B(a) and (c), which describe the components of the obligation condition using the terms "specific economic benefits" and "specific action." We believe use of the term "specific" in certain instances could result in diversity in application, for example, regarding whether economic benefits need to be identified with a certain degree of specificity or precision. Where appropriate and consistent with the Board's intent, we encourage the IASB to replace the term "specific" with "specified" or "particular," consistent with usage of those terms in the Conceptual Framework.

No practical ability to avoid (paragraph 14B(c))

Proposed paragraph 14F(a)explains that an entity has no practical ability to avoid discharging responsibility for a legal obligation when (i) the other party has the right to act against the entity, including the right "*to ask a court to enforce settlement*," if the entity fails to discharge the

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responsibility; and (ii) as a result of that right, *"the economic consequences of not discharging the responsibility are expected to be significantly worse than the costs of discharging it."* We note that, as currently written, paragraph 14F(a) could result in an interpretation that an entity does not have a present obligation in the case of a legal obligation if, for example, it expects a court would enforce settlement at a cash amount that is equivalent to or not worse than the amount that would have been required to discharge the responsibility, and related legal fees are not significant in relation to the settlement amount. We believe the IASB should revise paragraph 14F(a) to clarify the Board's intent, including when a court's potential enforced settlement is expected to result in discharging the responsibility to the other party. We also believe the IASB should consider whether the assessment of the economic consequences of not discharging a responsibility should be included as an element of measurement rather than recognition.

Further, proposed paragraph 14F(b) explains that an entity has no practical ability to avoid discharging a responsibility for a constructive obligation *"if the entity's pattern of past practice, published policy or sufficiently specific current statement creates valid expectations in other parties that the entity will discharge the responsibility."* We encourage the IASB to highlight, for example in the Basis for Conclusions, the difference in what is considered when evaluating a present obligation arising from a legal obligation versus a constructive obligation, including why the notion of economic compulsion is relevant to the legal obligation assessment and not the constructive obligation assessment.

Details of a proposed law have yet to be finalised (paragraph 14G)

Members note that the IASB retained paragraph 22 of IAS 37 in proposed paragraph 14G, which states, "*If details of a proposed new law have yet to be finalised, an obligation arises only when the legislation is virtually certain to be enacted as drafted. In this Standard, such an obligation is treated as a legal obligation."* Members encourage the IASB to reconsider the use of *virtually certain* as the probability threshold in this context. Members note that IAS 12 *Income Taxes* applies to income taxes arising from tax law enacted or *substantively* enacted, which occurs when any future steps in the enactment process will not change the outcome[1] and encourage the IASB to consider the use of substantively enacted as the probability threshold to determine when an obligation arises when the details of a proposed new law have yet to be finalised.

[1] See International Accounting Standards Board meeting | IASB meeting summary February 2005, page 4.

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Transfer condition (paragraph 14A(b) and 14I to 14L)

Proposed paragraphs 14A(b) and 14I describe the transfer condition of the present obligation criterion as *the nature* of the entity's obligation is to transfer an economic resource. We encourage the IASB to revise these paragraphs to remove the term "*the nature of*" to be consistent with paragraphs 4.27(b) and 4.36 to 4.41 of the Conceptual Framework which states *"the obligation is to transfer an economic resource"* to avoid diversity in application.

Proposed paragraph 14L states that "*an obligation to exchange economic resources with another party is not an obligation to transfer an economic resource to that party unless the terms of the exchange are unfavourable to the entity.*" We encourage the IASB to revise proposed paragraph 14L to describe an exchange of economic resources and explain how it differs from an obligation to transfer an economic resource. We note that paragraph 4.57 of the Conceptual Framework describes an exchange as an exchange of economic resources with another party as a combined right and obligation to exchange economic resources that are interdependent and cannot be separated. We also encourage the IASB to clarify that an obligation to transfer an economic resource[2] in the context of evaluating the transfer condition differs from an exchange because the entity has no right to receive an economic resource in exchange. We also believe it would be helpful to include a caption before proposed paragraph 14L to emphasise that the scope of this paragraph is to distinguish between an exchange and an obligation to transfer economic resources.

Past-event condition (paragraph 14A(c) and 14M-14R)

We encourage the IASB to expand the proposed amendments to provide clear guidance on how to identify a past event. We also encourage the IASB to revise the proposed amendments to include an underlying principle that should be used to identify how and when the past-event condition is met and update the

[2] See paragraph 4.39 of the Conceptual Framework.

> *" Obligations to transfer an economic resource include, for example:*
>
> *(a) obligations to pay cash. (b) obligations to deliver goods or provide services. (c) obligations to exchange economic resources with another party on unfavourable terms. Such obligations include, for example, a forward contract to sell an economic resource on terms that are currently unfavourable or an option that entitles another party to buy an economic resource from the entity. (d) obligations to transfer an economic resource if a specified uncertain future event occurs. (e) obligations to issue a financial instrument if that financial instrument will oblige the entity to transfer an economic resource."*

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illustrative examples to demonstrate the use of that underlying principle. We believe clarification of the underlying principle of the past-event condition will improve the clarity of the proposed amendments and effectiveness of the proposed illustrative examples and reduce diversity in application.

We note that unlike the proposed requirements for the obligation and transfer conditions in the present obligation criterion that provide guidance on how those conditions are met, the proposed amendments to IAS 37 with respect to the past-event condition do not provide an underlying principle to identify how and when this condition is met.

We also encourage the IASB to revise the example in proposed paragraph 14P to include the amount of the obligation for the year and an amount of the present obligation. We believe this will enhance the effectiveness of the example to support consistent application.

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?

Response:

We are supportive of the IASB's proposed amendments to IAS 37 to specify the costs an entity includes in estimating the future expenditure required to settle an obligation. We encourage the IASB to revise proposed paragraph 40A to include examples of the types of costs to be included, as noted in proposed paragraph BC63 and BC2 of the Basis for Conclusions for IAS 37 and, when material, require disclosure of the components of these costs. Furthermore, we encourage the IASB to provide guidance on whether fees paid to attorneys represent a direct cost to settle an obligation or an exchange of an economic resources when providing examples of the types of costs to be included in an estimate of future expenditures required to settle an obligation. We note that absent this clarification there will likely be diversity in the types of costs an entity determines are *directly* related to the obligation. Additionally, we note that other IFRS Accounting Standards provide guidance with respect to incremental costs, and that

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entities may look to this guidance to develop an accounting policy to apply absent further guidance in the proposed amendments to IAS 37, which could result in diversity in application.

We note that proposed paragraph 40A refers to the expenditure to settle an obligation. We also note that paragraph 37 of IAS 37 indicates that *"The best estimate of the expenditure required to settle the present obligation is the amount that an entity would rationally pay to settle the obligation at the end of the reporting period or to transfer it to a third party at that time."* We encourage the IASB to clarify how the requirements in proposed paragraph 40A apply when the best estimate of an expenditure required to settle a present obligation is calculated using the amount an entity would rationally pay to transfer the obligation to a third party.

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?

Response:

We are supportive of the proposed amendments to IAS 37 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. We are also supportive of

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the IASB's proposal 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).

We encourage the IASB to reconsider its conclusion not to add guidance to IAS 37 on how an entity determines an appropriate risk-free discount rate.[3] Additional guidance on how to determine an appropriate risk-free discount rate will reduce diversity in the measurement of provisions and increase the decision usefulness of the financial statement information. Additionally, the development of such guidance can also provide information which may be relevant to future IASB standard setting efforts related to the measurement guidance in other IFRS Accounting Standards.

We encourage the IASB to clarify and address any measurement differences that arise, including those resulting from these proposed amendments to IAS 37, when a provision acquired in a business combination accounted for under IFRS 3 *Business Combinations* is subsequently measured at the end of each reporting period under IAS 37. At minimum, it would be helpful if the IASB acknowledged in the Basis for Conclusion the resulting subsequent measurement difference between IFRS 3 and IAS 37. Alternatively, we encourage the IASB to consider introducing an exception to IFRS 3 to require discounted provisions to be measured in accordance with the proposed amendments to IAS 37.

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

[3] See paragraph BC81, Basis for Conclusions on Exposure Draft: Provisions – Targeted Improvements, Proposed Amendments to IAS 37.

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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?

Response:

We are supportive of the proposed transition requirements and the IASB's intention to decide on an effective date that provides sufficient time to those applying IAS 37 to prepare for the new requirements.

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?

Response:

We have no view on the proposals.

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.

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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?

Response:

As noted in our response to Question 1, we generally believe the decision tree and examples in the proposed amendments to IAS 37 are helpful in illustrating the application of the requirements. We encourage the IASB to expand the illustrative examples to be at the same level of specificity as the proposed present obligation recognition criterion.

We have the following observations on the proposed guidance on implementing IAS 37, in addition to observations included in our responses to the other questions.

B2 Decision tree
We encourage the IASB to revise the description of the decision tree in B2 to illustrate how to determine if the present obligation recognition criterion is met when it is not clear that a past event has given rise to a present obligation in proposed paragraph 16.

Example 2B – Contaminated land and constructive obligation
Example 15 – Climate-related commitments.
We note that the conclusion that the obligation condition in Example 2B and Example 15 are met identifies the party to whom the entity owes the obligation. In Example 2B the country's government, which acts on behalf of society at large, is identified and in Example 15 society at large is identified. We encourage the IASB to clarify how the entity identified the party owed the obligation or align the wording in the examples if a difference was not intended.

We also note that in each example, the analysis indicates that the obligation condition is met based on an entity making public statements without addressing if management has judged that the entity's actions have created a valid expectation on the part of other parties. For example, in Example 2B the fact pattern indicates that *"Management judges that by publishing the policy and honouring it in the past, the entity*

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has created a valid expectation in society at large that it will honour the policy in the future and therefore has no practical ability to avoid doing so." However, the analysis of the present obligation condition states that *"The entity's published policy imposes a responsibility on the entity if it contaminates land (paragraph 14B(a))"* without explaining why. We *strongly* encourage the IASB to expand the analysis of the obligation condition in both examples to also indicate that management has judged, based on an entity's facts and circumstances, that an entity has created a valid expectation on the part of other parties that the entity will discharge its responsibilities. We believe these revisions will enhance the clarity of the proposed amendments to IAS 37 and promote consistent application.

Example 13A – A levy on revenue
The analysis of the obligation condition identifies two separate actions taken by the entity that resulted in a levy being imposed on the entity. One of the actions identified was the generation of revenue in the market in 20X0, which is also identified in the fact pattern as the amount used to calculate the amount of the levy the entity owes. We encourage the IASB to clarify the distinction between how the identification of an action and the identification of a measurement basis was made.

We encourage the IASB to provide additional Illustrative examples that specifically address different types of levies, including levies that are imposed based on different types of activities or amounts than already addressed in Examples 13A and 13B *A levy on an entity operating as a bank on the last day of its annual reporting period*. For example, it is common for certain jurisdictions to impose levies when a change in zoning plans applicable to a property increases the existing building rights. These levies are due upon the earlier of the sale of the property to a third party or the issuance of a building permit and commencement of construction based on the new building rights. In this fact pattern, the proposed amendments could be interpreted to conclude that the entity has the practical ability to avoid the levy by choosing not to sell or build, which means it would not be required to recognise a provision. However, this outcome is inconsistent with the fair value measurement of the asset based on its exit price, as it takes into account the value derived from the building rights.

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

Response:

Scope – paragraph 3 of IAS 37
We note that the IASB amended the description of an executory contract in proposed paragraph 3 to align it with paragraph 4.56 of the Conceptual Framework. We encourage the IASB to make conforming amendments to paragraph 67 of IAS 37 to specify that an executory contract is a contract or a portion of a contract to clarify that an executory contract can be a portion of a contract when determining when a contract is onerous.

Definitions – paragraph 10 of IAS 37
We encourage the IASB to include a definition of the term "probable" in paragraph 10 of IAS 37 to promote consistency in the application of IAS 37's requirements. We note that proposed paragraph 23 states "*For the purpose of this Standard, a transfer of an economic resource or other event is regarded as probable if the event is more likely than not to occur, ie the probability that the event will occur is greater than the probability that it will not."* We also note that proposed paragraph 14K(a) includes "*probable (more likely than not)*" and the term "*more likely than not*" is used on its own in other sections of the proposed amendments to IAS 37.[4] Additionally, for example, we note that the term *probable* is used in proposed Illustrative Example 1, 2A, 2B, 3, 5B, 10, 13A, 13B, 13C, 14 and 15 and in Example 1 the term *probable (ie more likely than not)* is also used.

Interaction with IAS 19 Employee Benefits (IAS 19)
We note that in some cases IAS 19 refers to the requirements of IAS 37, for example related to winding up or withdrawal from a multi-employer defined benefit plan[5] or with respect to past service costs when an entity recognises restructuring costs.[6] While there is some discussion in the basis for conclusions to the proposed amendments about the requirements in the proposed amendments to IAS 37 as compared to certain requirements in IAS 19,[7] we encourage the IASB to provide additional information either in the proposed amendments to IAS 37 or in the basis for conclusions to clarify how and when transactions that

[4] See paragraphs 15, 16(a), B2 of the proposed amendments to IAS 37.
[5] See paragraph 39 of IAS 19 *Employee Benefits.*
[6] See paragraphs 103 and 165 of IAS 19 *Employee Benefits.*
[7] See paragraph BC47, Basis for Conclusions on Exposure Draft: Provisions – Targeted Improvements, Proposed Amendments to IAS 37.

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are within the scope of IAS 19 apply the requirements of IAS 37, including the proposed amendments to IAS 37.

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We appreciate your thoughtful consideration of the views provided in this letter.

If you have any questions or need additional information, please do not hesitate to contact me.

Yours sincerely,

Cameron McInnis FCPA, CPA (Illinois)
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