



Sir David Tweedie
IASB
International Accounting Standards Board
30 Cannon Street
London, EC4M 6XH
United Kingdom

31 August 2009

Dear Sir David,

RE: CURRENT DELIBERATIONS ON REVISIONS TO IFRS ON LIABILITIES

In October 2005 BUSINESSEUROPE submitted a comment letter to the Board on proposed amendments to (inter alia) IAS 37, Provisions, Contingent Liabilities and Contingent Assets. We have noted that the Board in June 2009 made tentative decisions in this area, from which we deduce that many of the representations which we made four years ago would not be reflected in the final Standard, expected in the fourth quarter of this year.

Our members had grave, real concerns about the proposals made at that time, and we would like to make the Board aware that those concerns have by no means diminished and hope that they will be given due attention before the revision is finalised. This topic is of considerable practical importance to preparers.

Among the points raised four years ago, which we limit ourselves to listing here, were:

- departure from the Framework criteria for recognition in respect of probability,
- unhelpful focus on transfer value, rather than expected ultimate settlement amount, especially because of the general absence of any market and inclusion of risk/profit margins,
- lack of relevance of low-probability obligations for users, associated costs for preparers,
- absence of evidence from the capital markets of any need for change,
- relative unreliability (pseudo-accuracy) of a probability-weighted approach in many cases,
- divergence from US GAAP (especially its effective recognition hurdle.)



In the appendix to this letter we would like to bring to your attention the substantial practical problems which would arise for preparers if the Board presses ahead with the proposed approach. We would be most grateful if you would ensure that the Board is fully aware of these potential problems when weighing the alternatives before it.

We remain at your disposal should you wish to discuss this subject further.

Yours sincerely,

P.P. 

Philippe de Buck



APPENDIX

1. Probability

The proposed shift of probability from being a recognition criterion to being a factor in measurement will mean that all obligations would have to be subjected to detailed quantitative analysis, assessment and measurement. At present, the current recognition hurdle requires the entity to focus on those obligations which are indeed more likely than not to lead to an outflow of resources and are thus the most relevant for users. As soon as an obligation has been identified as not clearing this hurdle, the only further analysis necessary relates to disclosures. In many, if not most, areas where single-item provisions are necessary – e.g. environmental, litigation – such less-likely obligations are often extremely numerous but of such low probability that their inclusion in the financial statements would not be decision-useful. We cite the instance of myriads of legal claims made in the US “on the off-chance” of squeezing legally unjustified concessions but with negligible probability of success in a court of law. All such obligations would have to be analysed and evaluated by professional legal and financial staff to arrive at the conclusion that the provision should be zero. This would not be relevant information from an investor’s point of view, nor an intelligent and cost-efficient use of scarce and costly professional resources.

We strongly urge the Board to carry out field tests or other such work as is necessary before it takes final decisions which would saddle the economy with very substantial costs without corresponding benefits for users. If approached with an open mind, such work should be able to identify, for instance, pragmatic simplifications which, though not major in impact on reported numbers, could considerably reduce the amount of resources which would otherwise be consumed in financial reporting of obligations.

While on the subject of probability, we would also like to point out that uncertainties in the area of single-item obligations are often so large that any sophisticated probability-weighted approach would be unlikely to come up with values which are any more accurate or faithfully representative than a “best estimate” and would simply give a misleading aura of science-based reliability. Here again, we urge the Board to look for pragmatic, practical simplifications.

2. Sensitive information

A particular concern of many preparers with regard to the IASB’s recent exposure draft on income tax has been the apparently low level of consideration given in the proposals on disclosure to the whole problem of sensitivity of information disclosed. Exactly the same concern remains on the topic of provisions, and so appreciable dismay is evident at the Board’s apparent tentative decision not to make any special concessions in this regard on litigation provisions. While we appreciate that users would be interested in having as full a disclosure as possible on potential exposures on



tax, pending legal cases, etc., the extent to which this would potentially jeopardize the interests of existing shareholders through divulging information to tax authorities, legal contestants, etc. must also be apparent. We strongly urge the Board to seek ways of defining requirements which can achieve a realistic balance between these two competing interests. We would be delighted to assist the Board in considering this matter with practical insights.

3. Measurement

Even after the recent tentative decisions on measurement we would challenge the Board to demonstrate that the proposed approach to measuring single-item provisions gives a more decision-useful result for users than making a best estimate of what resources are expected ultimately to flow out of the entity, discounted if necessary. Hypothetical values with inclusion of theoretical margins are not meaningful to management or, we would hazard, to most users. What is needed are realistic, pragmatic solutions.