



**International  
Accounting Standards  
Board**

**30 Cannon Street, London EC4M 6XH, United Kingdom  
Phone: +44 (0)20 7246 6410, Fax: +44 (0)20 7246 6411  
Email: [iasb@iasb.org](mailto:iasb@iasb.org) Website: <http://www.iasb.org>**

*This document is provided as a convenience to observers at IASB meetings, to assist them in following the Board's discussion. It does not represent an official position of the IASB. Board positions are set out in Standards.*

*These notes are based on the staff papers prepared for the IASB. Paragraph numbers correspond to paragraph numbers used in the IASB papers. However, because these notes are less detailed, some paragraph numbers are not used.*

## **INFORMATION FOR OBSERVERS**

**Board Meeting:**        **February 2006, London**

**Project:**                **IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* and  
IAS 19 *Employee Benefits* (Agenda Paper 8, appendix)**

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### **Amendments to IAS 37 and IAS 19 – Comment Letter Summary**

#### **INTRODUCTION**

1. The comment period on the ED of Proposed Amendments to IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* and IAS 19 *Employee Benefits* ended on 28 October 2005. The Board received comment letters on IAS 37 and IAS 19 from 123 respondents, including preparers, accounting firms, accounting bodies and standard setters. This paper summarises the comments received on the proposed amendments to both Standards.
2. This analysis begins by summarising significant general comments received on the ED. Specific comments on the IAS 37 proposals are then summarised based on the five main principles outlined in Agenda Paper 8. Because many respondents use the two examples of litigation in the ED to illustrate their concerns about these principles, a separate section for lawsuits is included. Specific comments on the IAS 19 proposals are analysed based on three principles at the end of this paper.

## GENERAL COMMENTS ON THE ED

### *Project scope*

3. The introduction to the ED explains that the proposed amendments to IAS 37 arise from:
  - (a) the Short-term Convergence project undertaken jointly with the FASB to reduce differences between IFRSs and US GAAP. Specifically the ED seeks to achieve substantial convergence with SFAS 146 *Accounting for Costs Associated with Exit or Disposal Activities*.
  - (b) the Board's reconsideration in Business Combinations Phase II project of the treatment of contingencies in an acquisition. As a result, the ED eliminates the terms contingent asset and contingent liability and reconsiders the application of the probability recognition criterion.
4. Many respondents comment that the overall effect of the amendments resulting from (b) would be far-reaching and fundamentally change the accounting concepts applied to the recognition and measurement of all non-financial liabilities.
5. Some respondents welcome the Board's decision to reconsider the concepts underpinning the recognition and measurement of non-financial liabilities. These respondents regard these concepts as crucial to sound financial reporting. However, they think that changing IAS 37 at this stage is premature.
6. Most respondents disagree with the proposals and state that the Board has not made a sufficiently compelling case for the changes arising from its consideration of contingencies. Some argue the proposed changes are unnecessary because:
  - There are insufficient flaws in the current IAS 37 to justify the proposed amendments (for example, some note IAS 37 was not a standard identified by IOSCO for improvement).
  - The Board has not demonstrated that users of financial statements require the information resulting from the proposals. Indeed some respondents question

whether the proposals will actually improve the relevance and consistency of financial reporting.

7. Two respondents suggest that the extent of the proposed changes justify issuing a new IFRS rather than an amendment to IAS 37.

#### ***Relationship with the Business Combinations project***

8. Some respondents question why such fundamental changes to IAS 37 should be driven by the Business Combinations project. Many of these respondents state that it is acceptable to have different treatments for contingent liabilities inside and outside of a business combination. This is because the current inconsistency is accepted and well understood. Respondents also note that similar inconsistencies arise in other areas in a business combination (eg intangible assets).
9. Some respondents justify recognising contingencies only in a business combination because a market transaction has occurred. This provides a reference point for measuring the asset or liability, whereas in IAS 37 measurement is based on a hypothetical transaction which may not occur. Furthermore, they argue that concerns about reliability of measurement are partly offset by the higher relevance of contingencies in the business combination purchase price allocation. One IAS 37 respondent recommends that even remote contingencies be excluded in a business combination because the information has little relevance for users and is unlikely to be a substantive factor in the acquirer's decision to purchase an entity.

#### ***Relationship with other projects***

10. Many respondents state that aspects of the proposals, in particular the revised analysis of contingencies and changes to recognition, should first be addressed at the concepts level rather than at the standards level. Many state that this is because these amendments are fundamental conceptual changes that warrant in-depth debate and consideration in a broader context than IAS 37. Some note that the Board itself indicated that the role of probability was to be considered as part of the concepts project in the IFRS 3 Basis for Conclusions (paragraph BC112).
11. Other respondents also view aspects of the Board's analysis in the Basis for Conclusions as equivalent to re-defining assets and liabilities. This because the

Board's analysis takes a broader view of rights and obligations together with inflows and outflows of economic resources than the current *Framework*.

12. Many also argue that aspects of the proposals conflict with the current *Framework* (for example, that a stand ready obligation by definition satisfies the probability recognition criterion; the omission of the probability recognition criterion). Most of these respondents think that making these changes to IAS 37 before amending the *Framework* is inappropriate because the changes impair the authority of the *Framework*. They also note that subsequent changes to IAS 37 may be needed as the Conceptual Framework project progresses.
13. A few respondents, however, think that the Board can introduce principles that are inconsistent or go beyond the *Framework* so long as there are benefits in financial reporting. However several of these respondents think that the benefits are questionable in this instance.
14. Many respondents therefore encourage the Board to use the responses to the ED as input into the Conceptual Framework Project (as the FASB is doing with its Invitation to Comment *Selected Issues Relating to Assets and Liabilities with Uncertainties*). They note that this will ensure that both the IASB and the FASB establish the same general principles and concepts for accounting for assets and liabilities with uncertainties before introducing those principles into standards.
15. Some respondents also believe that aspects of the proposals pre-empt the outcome of other projects, such as fair value measurement, revenue recognition, liabilities and equity, and insurance. These respondents recommend that the Board defer further development of the proposals until these projects are concluded or progressed further to avoid inconsistent guidance on accounting for liabilities in different Standards.

### ***Convergence with US GAAP***

16. Many respondents support the Board's objective of amending the application guidance in IAS 37 for costs associated with restructuring costs to align them with SFAS 146. The majority also express general support for the Board's continuing efforts to converge IFRS and US GAAP.

17. However, many note that the FASB has so far used the concept of a stand ready obligation only in limited cases (FIN 45 *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others* and FIN 47 *Accounting for Conditional Asset Retirement Obligations*) and has not indicated that it intends to reconsider SFAS 5 *Accounting for Contingencies*. Respondents therefore comment that the overall effect of the proposals creates major additional differences with US GAAP, specifically SFAS 5. They note that this effect is contrary to the objective of the short-term convergence project. Therefore some respondents recommend that the Board continues its work jointly with the FASB.

### ***Due process***

18. Many respondents express concerns about aspects of the Board's due process because they do not regard the process followed to date to be commensurate with the nature of the proposals. Among the specific concerns noted are:
- the absence of a Discussion Paper to allow time for detailed analysis and discussion of the proposed changes.
  - the short comment period (120 days), which coincided with the holiday season and the semi-annual external reporting cycle.
  - the absence of field testing and/or roundtable discussions to ensure the proposed changes can be implemented in practice.
  - the absence of a cost-benefit analysis for the proposed changes.
19. In addition, a few respondents observe that the Board has developed its accounting model for contingencies based on tentative conclusions reached in the Revenue Project about conditional and unconditional obligations. They state that this is inappropriate because those conclusions have not yet been subject to public debate.

### ***Project timetable***

20. Many respondents are concerned about the proposed effective date of 1 January 2007. Many, particularly preparers, think that it is inappropriate to introduce major changes to existing standards when entities are focusing on implementing IFRSs for the first

time. These respondents request a period of stability to embed recently issued IFRSs and to deal with other regulatory changes (such as Sarbannes-Oxley).

21. Respondents also argue that the extent of the proposed amendments requires a longer lead time than currently proposed in the ED. This will allow time for both preparers and users to fully understand the changes and prepare for implementation.

## COMMENT LETTER SUMMARY ON THE PROPOSED AMENDMENTS TO IAS 37

**Principle 1:** An entity shall apply IAS 37 to all liabilities that are not financial liabilities as defined in IAS 32, except for those resulting from executory contracts (unless the contract is onerous) and those within the scope of another Standard.

*IAS 37 currently applies to provisions, which are ‘liabilities of uncertain timing or amount’. However, if an entity has a non-financial liability that is within the scope of another Standard, the entity is likely to look to IAS 37 for guidance (using the IAS 8 hierarchy). The ED therefore clarifies the scope of IAS 37.*

*To emphasise the revised scope, the ED proposes withdrawing the term provision and uses the term non-financial liability.*

### ***Extending the scope of IAS 37***

22. Some respondents disagree with the change in scope because they believe that liabilities for which the amount or timing is not uncertain (ie which would not satisfy the current definition of a provision) should not be in the scope of IAS 37. They consider the existing segregation between certain liabilities and uncertain liabilities (ie provisions) is useful for users. Additionally, some note that the notion of a provision (as defined in the current IAS 37) is implicit in the disclosure requirements of the ED, because it distinguishes between liabilities with estimation uncertainty and those without.
23. However, many other respondents agree with making IAS 37 a ‘default’ or ‘catch all’ Standard for non-financial liabilities.
24. Whilst agreeing with the proposal, some of these respondents suggest that the Board undertake further work to identify liabilities that will now be in the scope of IAS 37 and to explain why the revised IAS 37 will be the appropriate standard for those liabilities. In addition, some respondents ask the Board to clarify whether the revised IAS 37 will apply to the following:
- advances paid by customers for goods to be delivered;
  - deferred revenue;

- performance obligations;
- deferred income from government grants; and
- loan commitments outside the scope of IAS 39 *Financial Instruments: Recognition and Measurement*.

***Withdrawing the term provision and use of the term ‘non-financial liability’***

25. Views on withdrawing the term provision are more mixed. Approximately half the respondents disagree with the Board’s proposal, noting that the term ‘provision’ is widely used and accepted by all stakeholders.
26. Some respondents who agree with the proposal nonetheless express concerns about the term ‘non-financial liability’. They note that all liabilities may be described as *financial* in its broadest sense and therefore, without reference to the specific meaning of a *financial liability* in IAS 32, the term is confusing and misleading. Some respondents also note that the term may be misinterpreted to suggest an obligation with either no contract or non-cash settlement.
27. Several respondents recommend a positive rather than a negative term to describe liabilities within the scope of IAS 37. Some suggest retaining the term ‘provision’ but allowing entities to use alternative terms to describe the exact nature of the provision in their financial statements.

**Principle 2:** An entity shall recognise a non-financial liability when (a) the definition of a liability has been satisfied and (b) the non-financial liability can be measured reliably.

**Sub-principle 2.1: Liabilities arise only from unconditional (non-contingent) obligations.**

*The ED proposes eliminating the term contingent liability as a liability is an unconditional obligation and therefore cannot be described as contingent or conditional. A conditional or contingent obligation does not by itself give rise to a liability.*

*The ED proposes that an entity must determine whether it has a liability (an unconditional obligation).*

*The ED explains that some items that are currently described as contingent liabilities are in fact liabilities, comprising an unconditional obligation and a conditional obligation. It also explains that an unconditional obligation associated with a conditional obligation can be described as a stand ready obligation.*

***Eliminating the term ‘contingent liability’***

28. Responses to eliminating the term contingent liability are mixed. Some respondents agree with the Board’s conclusion that it is inappropriate to describe an item that satisfies the liability definition as a *contingent* liability. They also agree that the current practice of using the term to describe two distinct notions ((a) when it is not certain whether an item is a liability and (b) a liability that fails to qualify for recognition because it is not probable or it cannot be reliably measured) is confusing.
29. However, an equal number of respondents believe that the term is well understood and argue the term is useful in helping users to understand risks that are not yet recognised as liabilities. These respondents recommend that the Board retain the term with its current meaning. Alternatively, others suggest improving the current terminology and distinguishing between possible or potential obligations and liabilities that fail the recognition criteria.
30. Some respondents are concerned that withdrawal of the term contingent liability may mean potentially significant risks are not disclosed. Disclosures are discussed further in principle 4.

### ***Identifying the obligating event***

31. Many respondents state that they agree with the Alternative View in the ED. In particular they state that the ED fails to provide sufficient guidance on how to determine the obligating event or the circumstances leading to the obligating event in the absence of a contractual agreement (or put another way, how to identify the existence of an unconditional obligation). Others say there is inadequate guidance about the quality of evidence that is required before a liability qualifies for recognition.
32. Some respondents also state that the distinction between a ‘stand ready’ obligation and a general business risk is unclear. Some respondents are concerned that application of the ‘stand ready’ concept will result in an almost limitless number of unconditional obligations having to be identified and potentially recognised just because the entity is subject to certain laws. For example, one respondent observes that it would be possible to argue that an entity has stand ready obligations imposed by laws in relation to occupational health and safety, redundancy, accident compensation and negligence claims, simply by operating a business subject to these laws. One respondent notes that most executory contracts can be seen as including a stand ready obligation and therefore asks the Board to clarify the boundary between a non-onerous contract and a stand ready obligation.
33. Many respondents highlight concerns about the Board’s application of the stand ready notion to a lawsuit. The specific issues raised by respondents in relation to lawsuits are summarised in paragraphs 87 – 97.

### ***Analysing contingencies into conditional and unconditional obligations***

34. A few respondents remark that this new analysis of contingencies works well in certain cases (eg some contractual obligations). However, many respondents believe that the new analysis is not sufficiently well developed and explained to be implemented consistently at this time. Many respondents say they find the analysis confusing and confused and think that the analysis over complicates the concept that conditions are reflected in measurement, not recognition. Therefore some respondents feel the proposals do not meet the understandability characteristic in the current *Framework*.

35. More specifically respondents make the following observations:

- A conditional obligation is a misnomer—if an item is an *obligation* it is by definition unconditional.
- Often the unconditional and conditional obligations are inseparable, therefore the bifurcation seems unnecessarily complex, particularly because the measurement of an unconditional obligation reflects the conditional obligation. A few respondents go as far as to suggest that the degree of emphasis placed on the unconditional obligation in the ED may result in entities failing to reflect the conditional obligation in the measurement of the liability.
- The analysis is potentially confusing because in saying that there are two obligations it suggests that there are two *liabilities*. However, there is only one liability (with uncertain cash flows). One respondent suggests amending the analysis to replace the term unconditional obligation with ‘present obligation’ and replace the term conditional obligation with ‘measurement uncertainty’.

**Sub-principle 2.2: Any liability that incorporates an unconditional obligation satisfies the probability recognition criterion in the *Framework*. An entity shall reflect uncertainty about the amount or timing of the economic benefits that will be required to settle a non-financial liability in the measurement of that liability.**

*The ED proposes to omit the probability recognition criterion from IAS 37. The Board argues that any liability incorporating an unconditional obligation satisfies the probability recognition criterion. More specifically the ED highlights that a stand ready obligation is a type of service obligation and hence the outflow of resources required under the Framework is the provision of services. Accordingly, the ED proposes that uncertainty about future events that affect the amount required to settle a liability is reflected in the measurement of the obligation.*

36. The majority of respondents oppose this proposal. They do not agree that all uncertainty should be reflected in the measurement of a liability. However, these respondents also note significant practical limitations in applying these proposals to non-contractual, single obligations. Respondents most often illustrate these limitations using the example of a lawsuit. These comments are summarised in paragraphs 87 – 97. The principal objections to the proposals are outlined in the subsections below.

#### ***Decreasing the relevance of financial information***

37. Many respondents question whether financial reporting will be improved by applying this principle. Many do not think that recognising liabilities for which there is only a remote possibility of a cash outflow results in relevant financial information. Rather, these respondents think that disclosure provides more relevant and useful information for users.
38. Other respondents are concerned that the proposal to recognise a liability with a low probability of settlement will mean useful disclosure about contingencies is replaced by information on the balance sheet that lacks relevance.
39. However, a few respondents agree that eliminating the probability cliff-hanger is a conceptual improvement and state that non-recognition of liabilities for which future settlement is conditional on the occurrence of an event with less than 50 per cent chance of occurrence does not capture economic reality. Some also acknowledge that the existing ‘work around’ of applying the probability recognition criterion to a portfolio is unsatisfactory.

### ***Inconsistency with the existing Framework***

40. Most respondents argue that the proposed approach is inconsistent with the *Framework* for two main reasons:
- (a) it is inconsistent with the phrase ‘*expected to result in* an outflow of resources embodying economic benefits’ in the *Framework* definition of a liability. Respondents argue that to determine whether an outflow is *expected* it is necessary to determine whether an outflow is *probable*.
  - (b) it is inconsistent with the recognition criteria in the *Framework*. Respondents argue that because the *Framework* requires an assessment of the probability of an outflow of economic resources as a criterion in determining whether a liability should be recognised, it is inappropriate to consider probability only in measurement in IAS 37. They believe that is contrary to the intent of the *Framework*.
41. Some note that even if they accept the Board’s explanation of why the proposal is consistent with the *Framework*, the Board’s explanation changes an established interpretation. These respondents think that changing an established interpretation is tantamount to changing a concept and therefore object to the proposal on this basis.
42. Some of the respondents who agree conceptually with the proposal are nonetheless concerned about the relationship of the proposal to the current *Framework*. For example many respondents disagree that an obligation to ‘stand ready’ necessarily requires an outflow of resources (either in cash or in services).

### ***Costs outweighing the benefits***

43. Some respondents also argue that the cost to financial statement preparers of recognising and measuring low probability liabilities will far outweigh the benefits to users. In particular respondents note that omission of the probability recognition criteria increases the number of non-financial liabilities to be recognised. Many consider the cost of (a) identifying these previously unrecognised liabilities, and (b) assigning cash flow scenarios and probabilities to be disproportionate to the insignificant amounts likely to be recognised.

**Sub-principle 2.3: A non-financial liability can be measured reliably, except in rare circumstances.**

44. Some respondents disagree that this principle, brought forward from the existing IAS 37, is still valid. They believe that the proposals are likely to result in a commensurate increase in liabilities that are not recognised because they cannot be measured reliably.
45. One respondent suggests the proposals include a discussion on what constitutes 'reliable measurement' otherwise entities might inappropriately not recognise liabilities, which will damage the perceived quality of IAS 37 and result in inconsistent application.
46. A small number of respondents propose that the reliable measurement recognition criterion should also be eliminated because it is a binary condition. They argued that since reliability is a question of degree, it should be reflected in measurement and disclosed.

**Sub-principle 2.4: An entity has a liability arising from a constructive obligation only if its actions result in other parties having a valid expectation on which they can reasonably rely that the entity will perform.**

*The ED proposes amending the definition of a constructive obligation to clarify that the counterparty must have a valid expectation that it can ‘reasonably rely’ on the entity to perform. It also proposes some additional guidance on determining whether an entity has incurred a constructive obligation.*

*In its Basis for Conclusions the Board highlights that its proposal to add the notion of the counterparty being able to ‘reasonably rely’ should not affect existing well-understood examples of constructive obligations. However, it also explains that items previously considered to be constructive obligations, but that leave the entity discretion to avoid settling the item, will no longer meet the definition of a constructive obligation.*

47. Many respondents read the Basis of Conclusions to suggest that the Board’s intent is to restrict the class of items considered to be constructive obligations. However, they do not think that this intention is clearly reflected in the ED.
48. Some respondents argue that in order for an entity to create a valid expectation (the current definition in IAS 37) the counterparty must be able to reasonably rely on the entity to discharge their responsibilities. In other words, they think that the proposed amendments will have no substantive effect or are unclear as to the expected effect in practice. To assist in understanding the Board’s intention and the effect of this change, respondents request examples of constructive obligations that are currently recognised but which will not satisfy the proposed definition.
49. Notwithstanding the confusion about the change, many respondents agree in principle with clarifying the circumstances in which a constructive obligation arises. However, other respondents argue either (a) there is no justification for change because there is insufficient diversity under the current requirements to suggest that they are not operational, or (b) the Board should not make any amendments until further work on liabilities is complete.
50. Other respondents are uncertain about what type of communication is required before another party can ‘reasonably rely on’ the entity’s actions. These respondents request further application guidance to remove any potential for inconsistency in practice. One respondent notes that the additional guidance in the ED (paragraph 15) might preclude recognition of constructive obligations because it refers to experts, who

could be read to include lawyers. These expert lawyers may argue no obligation exists since there is no legal obligation.

51. A small number also believe the Board should amend the definition further to include the notion of ‘promissory estoppel’ as used in SFAS 143 *Accounting for Asset Retirement Obligations*. These respondents believe that the use of this term would provide greater clarity on the recognition point for constructive obligations and also achieve greater convergence with US GAAP.

**Sub-principle 2.5: Non-financial liabilities for costs associated with a restructuring should be recognised on the same basis as if they arose independently of the restructuring.**

*The ED explains that a restructuring plan and its announcement do not give rise to a constructive obligation. Hence, it proposes that a liability is recognised for each cost associated with the restructuring when the liability for that cost is incurred rather than recognising a single liability at a specified point for all of the costs associated with the restructuring. Additional guidance for applying the principles of the ED to restructuring costs is also provided in the ED.*

52. The majority of respondents agree or make no comment on the proposed changes and agree that the additional guidance is helpful.
53. A few respondents disagree with the proposals because they think recognising a single liability provides better information. They note that the individual costs of a restructuring may fall into different accounting periods as a result of the proposed changes. They think that the financial information provided in each period will be less meaningful to users because the total cost of the restructuring is not clearly identifiable. They also argue that the financial statements would not reflect the economic substance of the management decision made to restructure during that period.
54. Others note the following concerns:
- The restructuring costs guidance is inconsistent with the proposed amendment to involuntary termination benefit recognition in IAS 19. IAS 19 (as proposed in the ED) requires involuntary termination benefits to be recognised when the entity has communicated the plan to the affected employees, and the plan meets specified criteria (unless the benefits are a ‘stay bonus’). However, no liability is recognised for a contract to be terminated until the actual termination occurs.
  - The restructuring costs guidance is inconsistent with the guidance on constructive obligations provided in the ED. Many respondents note that it is possible for a constructive obligation for contract termination costs to exist before the contract is actually terminated or the entity ceases to use the right conveyed by the contract. This is because they think that an entity may make a sufficiently current and public statement to the extent that it has created a

valid expectation in those parties affected that they can reasonably rely on the entity to discharge the restructuring. In particular, one respondent notes that although restructuring announcements are not legally binding, it is extremely rare for an entity to reverse its decision because it damages the reputation of the company. As a result some respondents comment that the proposed amendments will not have the desired effect, because entities will conclude a constructive obligation to restructure exists and therefore will continue to recognise non-financial liability.

55. Several respondents (both those who agree and those who disagree with the proposal) suggest the ED include specific disclosure requirements for restructuring provisions because users regard corporate restructuring as important events. These disclosures may include a description of the restructuring, the segments affected, the expected total cost and the expected timing of those costs.

**Sub-principle 2.6: If an entity has a contract that is onerous, it shall recognise as a liability the present obligation under the contract. If the contract will become onerous as a result of the entity's own actions, the entity shall not recognise the liability until it has taken the action.**

*The requirements for onerous contracts in the ED are largely unchanged from the existing Standard. The ED provides additional guidance to explain (a) when an onerous contract liability is recognised if the contract becomes onerous as a result of the entity's own actions and (b) how to treat sub-lease rentals when measuring an onerous contract liability for an operating lease.*

***Inconsistency with the guidance for constructive obligations and IFRS 5***

56. The majority of respondents agree with the proposed change or do not comment on the proposals. Those who disagree make the following points:

- An entity should not delay reporting an expected outflow of economic benefits until planned actions are actually taken. An entity may have made firm commitments or taken other actions that make it either unavoidable or highly likely that the action will occur.
- The proposals are not consistent with the rest of the ED. Some argue that the proposals are inconsistent with the recognition guidance for constructive obligations. For example, an entity may make a sufficiently current and public statement that it intends to vacate a property occupied under an operating lease to the extent that it has created a valid expectation in those parties affected that they can reasonably rely on the entity to vacate the property. This would suggest that the liability should be recognised when the public statement is made rather than when the entity vacates the property. In contrast, a few note that the ED states that formal announcement of a restructuring plan does not create a liability as the entity could recall the plan. Since an entity could move back into vacated lease premises if it has not terminated the contract, it is not clear why vacating the premises creates a liability.
- One respondent requests the Board articulate more clearly that these proposals aim to achieve convergence with US GAAP, rather than be consistent with the rest of the ED. Some are prepared to accept the proposals on the basis of convergence alone. Alternatively, some see the US GAAP guidance in this

area as rules based rather than principles based and therefore do not support convergence in this area.

- The proposals conflict with IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations*. In applying IFRS 5 an entity may need to recognise an impairment expense when it classifies an asset as held for sale. This is when management is committed to the sale of the asset (ie recognition of the impairment is based on management intent). However, an expense is recognised for an onerous contract only when the entity ceases to use the asset.

### ***Clarification of proposals and existing requirements***

57. Many respondents request clarification in three main areas:

- The meaning of ‘an entity’s own actions’. For example, some ask whether a decision and giving notice to vacate an office in a year’s time is the past event, or only the actual vacating of the premises. One respondent is concerned that slightly unperformed executory contracts may fall into this category.
- The recognition point when a lease contract becomes onerous before the date the entity vacates the premises due to other factors outside its control. The lack of clear guidance may result in inconsistent practice.
- The meaning of ‘economic benefits’ in the onerous contract definition. Some are concerned that the proposals (specifically paragraph 57) mean that a liability is recognised for an onerous contract merely because the price the entity is committed to pay for the goods or services or rights of use under the contract is higher than the market price.
- The wording in paragraphs 55 and 58. One respondent notes that paragraph 55 states an entity ‘shall recognise as a liability the present obligation under the contract’. This indicates that the liability is the gross present obligation. However, paragraph 58 requires an entity to deduct expected future economic benefits from the unavoidable cost of meeting the obligation, which indicates a net obligation is recognised.

### *Sub-lease rentals*

58. The ED also proposes that the liability for the unavoidable lease commitment should be reduced by the estimated sub-lease rentals that could reasonably be obtained for the property, even if the entity does not intend to enter into a sub-lease. Again, most respondents agree or make no comment on the proposed amendments. However, some respondents do not agree with this proposal because they believe that the measure should be entity specific and therefore, if appropriate, reflect that the entity does not intend to sub-lease.
59. Some respondents request clarification that the estimated sub-lease rentals that could be reasonably obtained do not include sub-lease rentals when it is difficult to find a sub-lessee, when a sub-lease is prohibited by the contract or the duration of the contract is too short to permit a sub-lease.

**Principle 3: An entity shall measure a non-financial liability at the amount that it would rationally pay to settle the present obligation or to transfer it to a third party on the balance sheet date.**

*The current measurement objective is 'best estimate' which is described as 'the amount that an entity would rationally pay to settle the obligation at the balance sheet date or to transfer it to a third party at that time'. The ED proposes to use this description of best estimate as the measurement objective. The phrase 'best estimate' is no longer used.*

### ***Relationship with fair value***

60. Many respondents disagree with the revised measurement objective and regard the change as more significant than the Introduction and Basis for Conclusions suggests. Coupled with the change in scope, many respondents regard the amended measurement objective as establishing the general principle that all non-financial liabilities should be measured at fair value. Most respondents do not think that the Board has done sufficient work to justify extending the use of fair value to non-financial liabilities. In particular, respondents are concerned that the use of fair value as the measurement objective for non-financial liabilities will not result in relevant or reliable information.
61. Some respondents state that they find it counterintuitive that liabilities in IAS 37 are measured similarly to fair value, while some financial liabilities that are risk managed on a fair value basis are measured at amortised cost in IAS 39.
62. A few respondents ask the Board to explain how the measurement objective is different from fair value. More specifically, one respondent questioned whether the Board expected any 'day two' measurement issues to arise when an acquired liability is initially measured at fair value and subsequently measured under IAS 37.
63. Conversely, one respondent suggests that the Board takes the opportunity to measure non-financial liabilities at fair value to ensure greater consistency of measurement across standards.

### ***Decreasing the relevance of financial information***

64. Many respondents state that the measurement objective is not always the most relevant measurement basis for non-financial liabilities. This is particularly the case when an entity does not intend, or is not able, to transfer the obligation to a third party

because in many cases the market transaction assumed in the measurement objective will not take place. Indeed often it is not actually possible to transfer those obligations within the scope of IAS 37. Therefore respondents think attempting to measure a non-financial liability on this basis does not reflect economic reality and provides less relevant information than the amount the entity expects to pay in the future.

65. Some respondents perceive the measurement objective to be measurement on a break-up or liquidation basis because it does not take into account an entity's future expectations. These respondents state this approach is contradictory to the going concern basis of preparing accounts applicable to most entities. One respondent uses the example of a lawsuit for which an entity firmly believes it is not liable. Because the entity believes it can successfully defend the case, the entity is not willing to pay anything to transfer the liability, but is forced to measure the obligation at the balance sheet date (ie as if it must settle or transfer the liability tomorrow). Therefore a single best estimate is the preferred measurement objective.
66. Others comment that the proposed approach is akin to the 'legal lay-off' of an obligation. The practical limitations of legal lay-off have been acknowledged by the Board in its revenue recognition project. Many question why the same limitations have not been considered in the context of IAS 37.

### ***Reliable measurement***

67. Many respondents disagree with the revised measurement objective because they do not think it enables reliable measurement of a non-financial liability (both on initial recognition and subsequently). This is because reference markets often do not exist for obligations within the scope of IAS 37, therefore estimation techniques are used. Estimation techniques are inherently subjective and therefore some are concerned by the potential for manipulation. Respondents think that these factors may impair the perceived reliability of the information reported. The risk of manipulation is particularly pertinent from one reporting period to the next because a small percentage change in one assumption may have a significant impact on reported earnings. One respondent suggests prohibiting changes in assumptions until there is positive proof that measurement is no longer justifiable within a range of reasonable estimates.

68. Some respondents note that initial and subsequent re-measurement of obligations at the amount required to transfer or settle is likely to increase volatility in the income statement. Some comment that the current income statement is not capable of separating changes in earnings due to changes in discount rates and estimates of cash flows from changes in earnings due to operating activities. This makes it more difficult for users to compare the financial results of different entities.

*Choice permitted in measurement*

69. Some respondents are concerned that the revised measurement objective appears to permit a choice of measurement between an entity specific amount (amount to settle) or market based (amount to transfer). Some respondents think that the two perspectives may lead to different values. These respondents note that it is clear that a market based measurement will include the risk premium required by the counterparty to assume the non-financial liability. In contrast, an entity specific based measurement could be interpreted to not require a risk premium. They therefore suggest that the Board either clarify the measurement objective or provide guidance on which basis to use.

**Sub-principle 3.1: The basis of estimating a non-financial liability is to use an expected cash flow approach.**

*IAS 37 currently explains that the best estimate of a single obligation may be its most likely outcome. The ED explains that the most likely outcome is unlikely to represent the amount at which the liability could be settled or transferred. It therefore withdraws the existing guidance for measuring a single obligation at its most likely outcome.*

***Applying the expected cash flow approach to a single obligation***

70. Many respondents agree that an expected cash flow approach is an appropriate basis for measuring a homogenous population of liabilities such as warranties because of the law of large numbers. (Although one comments that an expected cash flow approach is only appropriate if the measurement basis is fair value.) But most respondents object to using expected value as the basis for measuring single obligations for the following reasons:

- For a single obligation with two outcomes, the measurement never reflects the actual cash flow. Many therefore consider such a measurement to lack relevance and be misleading to users. Retaining ‘the most likely outcome’ is preferred as it will generally reflect the best estimate of how the liability will be settled.
- Expected cash flow approach is not applicable where the possible outcomes do not fall into a standard distribution.
- The methodology requires complex models. Furthermore in many cases (eg lawsuits) no reliable statistical data will be available. Coupled with subjective judgements about discount rates and risk adjustments, many respondents believe that the cumulative effect will be an unreliable, unsupportable measurement of a liability which cannot be easily verified via the audit process. Some respondents request that the proposals include a working example, including data sources.
- Many respondents find it is already time-consuming and costly to obtain the necessary information (mainly from lawyers) needed to measure liabilities in IAS 37. To develop or request a range of probability weighted cash flow scenarios will, in the opinion of some respondents, increase the time and costs

involved in preparing financial statements. One respondent suggests permitting the use of computational short cut methods, where appropriate, to limit the cost to preparers. For example, SFAS 146 does not preclude an entity from using alternative measurement techniques or short cuts if the answer is consistent with the Standard's measurement objective.

- One respondent does not agree with the proposed guidance on future costs. The respondent considers it unrealistic to expect an entity to reliably incorporate the probabilities of future events without there first being sufficient objective evidence. This respondent also notes that this approach is contrary to that taken in other standards such as IAS 36 which requires the uses of "reasonable and supportable assumptions".

71. Most respondents who disagree with the proposals use lawsuits to illustrate their point. These specific comments are included in the comprehensive lawsuit example in paragraphs 87 – 97.

#### ***Lack of guidance***

72. Many respondents state that there is insufficient guidance in the ED about how to implement the measurement requirements. Respondents requested further guidance about selecting appropriate discount rates, the treatment of own credit risk and risk adjustments.

#### ***Differences with US GAAP***

73. Others note that subsequent re-measurement of a liability using the current interest rate differs from SFASs 143 and 146. Equally IAS 37 treats the unwinding of the discount as a finance cost, but US GAAP considers this to be an accretion expense. Therefore convergence with US GAAP is not achieved.

**Principle 4: An entity shall disclose sufficient information to enable users of the financial statements to understand the amount and nature of an entity's non-financial liabilities and the uncertainty relating to the future outflows of economic benefits that will be required to settle them.**

*The ED proposes two main changes to the disclosure requirements:*

- (a) consistently with the elimination of the term contingent liability, it requires disclosures about the entity's non-financial liabilities only (ie not its possible obligations); and*
- (b) the more detailed disclosures required for provisions in IAS 37 are now required only for liabilities with estimation uncertainty.*

***Disclosure of items previously known as 'contingent liabilities'***

- 74. Notwithstanding the Board's comments in paragraph BC32 that there will be no loss of disclosure, respondents think that the amendments will result in less clear and more fragmented disclosures about recognised and unrecognised liabilities and business risks than is currently the case.
- 75. Some respondents are concerned that withdrawal of the term contingent liability may mean potentially significant risks (arising from standalone conditional obligations and possible obligations) are not disclosed. One example is a change in law which has not been substantively enacted by the balance sheet date or before the financial statements are published. This information is relevant to users and respondents state that its omission decreases the quality of information reported in the financial statements.
- 76. Additionally, other respondents argue that the Board's proposals will result in useful disclosure about previously unrecognised obligations being replaced with recognised liabilities that are so subjective that they cannot be relied upon. This is particularly the case for obligations with low or remote probability of future settlement.

***Disclosures for liabilities with estimation uncertainty***

- 77. Paragraphs 67 and 68 of the ED address the disclosure requirements for recognised non-financial liabilities. The ED requires disclosure of the uncertainties relating to each class of liabilities, not each individual liability. Therefore, a few respondents are concerned that it will be very difficult to clearly articulate all of the different variables included in one class of non-financial liabilities. As a result users may be confused and struggle to understand the overall impact on the financial statements.

78. One respondent also queries why the disclosure requirements are segregated between uncertain and certain non-financial liabilities. This respondents thinks that some of the disclosure requirements (for example the timing of expected cash flows) are applicable to both certain and uncertain liabilities.

*Other disclosure concerns*

79. Some respondents suggest that additional disclosure should be provided when the expected cash flow approach is used. Such disclosures may include the range of future outcomes and the associated probability of occurrence. Others emphasise the importance of full explanation and disclosure to ensure users have adequate information to assess the nature and uncertainty associated with each class of non-financial liability.
80. Many respondents are concerned that disclosure of additional information about lawsuits may unduly influence the outcome of the case. The specific concerns noted by respondents are included in paragraphs 87 – 97.
81. Many respondents suggest that the current disclosure requirements in the ED are extended to include specific disclosures for restructuring provisions.

**Principle 5: Assets arise from unconditional (non-contingent) rights.**

*Consistent with the proposal to eliminate the term ‘contingent liability’, the ED proposes eliminating the term contingent asset. Also the ED specifies that items previously described as contingent assets, but satisfying the definition of an asset within the Framework, are within the scope of IAS 38 Intangible Assets rather than IAS 37 (except for rights to reimbursements).*

***Eliminating the term ‘contingent asset’***

82. Respondents’ views on this are similar to their views on eliminating the term contingent liability. That is to say, some respondents agree that there is no need for the term, but state the Board needs to provide clearer guidance about what gives rise to an asset (unconditional right). Alternatively others think that the term appropriately captures circumstances in which it is uncertain whether an asset exists and therefore it should be retained.

***Including items previously described as ‘contingent assets’ within the scope of IAS 38***

83. Many respondents agree that IAS 37 is not the appropriate standard for assets, but do not agree that IAS 38 should be used as a ‘catch all’ standard for assets. The reasons articulated by respondents are:

- Not all items currently described as contingent assets meet the definition of an intangible asset in IAS 38. Some respondents believe that items previously described as contingent assets are inherently financial in nature and that such ‘monetary’ items are more appropriately placed within the scope of IAS 39.
- IAS 38 does not provide adequate guidance for recognition, initial measurement and subsequent measurement of items previously known as contingent assets. For example, IAS 38 guidance on amortisation, depreciable amounts, and residual value may result in items previously known as contingent assets being amortised. Respondents do not believe this is an appropriate outcome.
- The proposals create different criteria for the recognition of assets and liabilities formerly described as contingent. This is because the ED proposes omitting the probability recognition criterion and therefore reflect all uncertainty in the measurement of a liability. However, no similar changes

are proposed to IAS 38. Conversely, a few respondents prefer to retain the 'virtual certainty' recognition threshold for items previously known as contingent assets.

- Similarly there are no changes proposed to the measurement requirements for assets now within the scope of IAS 38. Respondents are therefore concerned that the combination of unchanged recognition and measurement requirements may result in an imbalance between assets and liabilities with an overall understatement of shareholders' equity.

84. Some suggest either a new standard to address the accounting for items previously known as contingent assets or including additional guidance in IAS 38. Others suggest adding disclosure requirements to IAS 38 to capture items previously described as contingent assets and disclosed under IAS 37.

**Sub-principle 5.1: A right to reimbursement is an asset. An entity shall recognise a reimbursement right if it can be measured reliably. The amount recognised for the reimbursement right shall not exceed the amount of the related non-financial liability.**

*Consistent with the revised analysis of a items previously known as contingent asset, the ED proposes that if an entity has an unconditional right to reimbursement, that right is recognised as an asset if it can be measured reliably.*

85. Most respondents agree or make no comment about this proposal. Those who disagree argue either that the ‘virtual certainty’ recognition threshold in the current IAS 37 should be retained or that recognition should be subject to a ‘probable’ threshold consistently with the *Framework*.
86. Other comments on the proposals were as follows:
- Some question why the guidance on reimbursement rights remains in a Standard about liabilities. Some state that they do not understand the distinction between reimbursement rights and other items previously known as contingent assets (which the ED proposes to move to IAS 38, as noted above). For example, one respondent questions whether the unconditional right to receive a reimbursement is accounted for under IAS 38 whereas the proceeds to be received due to the occurrence of a specific insured event are accounted for under the ED. Some suggest that reimbursements should be dealt with in IAS 39.
  - Some respondents suggest the Board specify how the reimbursement right should be measured. Two suggestions are a measurement consistent with the related liability and fair value.
  - Others question why the ED retains a ceiling (of the amount of the related liability) on the measurement of the reimbursement right. For example, they note that this might require part of the reimbursement right to be derecognised if the liability was (part) settled before the reimbursement was received. Others ask the Board to clarify whether the excess is an intangible asset and comment on the inconsistency with IAS 16 (paragraph 16(c)) where no ceiling applies.

- Some note that guidance is required for instances where it might be possible to measure reliably a liability net of its related reimbursement but not the liability and reimbursement separately. One respondent uses the example of an insured event when the excess on the policy is known, but the gross cost to the entity and the gross recovery from the insurance contract are not known.
- Others think that permitting the income from a reimbursement right to be offset against the expense for the liability is inconsistent with IFRS 4.14(d).

### **Illustrative example: Lawsuits**

87. Almost all respondents comment on the difficulties of applying the revised IAS 37 to lawsuits and comment on the two illustrative examples of litigation (Examples 1 and 2). Many respondents use the example of a lawsuit to illustrate their concerns about the practical implementation of the proposals in the ED.

#### ***Identifying the obligating event***

88. Many state that the analysis of the two examples is contradictory. This is because in Example 1, the disputed lawsuit, the start of legal proceedings gives rise to a stand ready obligation (to perform as the court directs), consistent with the explanation in paragraph 26 of the ED. Whereas in Example 2, the potential lawsuit, the obligating event is the negligent action of the entity.
89. Many disagree that an entity necessarily has a present obligation as a result of the start of legal proceedings. Some argue that the obligation to provide compensation arises on the occurrence of relevant events and it is the court's role to establish those relevant events. One respondent states that the start of legal proceedings should only be used for identifying an obligation as a pragmatic solution when the occurrence of events is in dispute.
90. Respondents also agree with the Alternative View in the ED about the difficulty of distinguishing between Example 1, the potential lawsuit, and Example 10A, the change in the law. They question why the former gives rise to a stand ready obligation whereas in the latter, no obligation arises until substantive enactment of the law, even when that law has retrospective application. One respondent suggests that the Board's conclusions about when an obligation arises under a new law could be applied to court proceedings. Hence, rights or obligations arising from court proceedings should be recognised only when there are no future steps in the legal proceedings that can change the outcome.

#### ***Reflecting uncertainty in measurement rather than recognition of the liability***

91. A US respondent states that the ED fails to acknowledge that lawsuits are a part of doing business in the United States. Tort laws in the United States permit the filing of

frivolous lawsuits, and cases are often dismissed before going to trial. Recognising a liability in every case potentially ignores the frivolous nature of the case.

### ***Difficulty of measuring reliably***

92. Many respondents illustrate their concerns about the measurement proposals with lawsuits because lawsuits are typically binary outcome non-financial liabilities that pose particular measurement difficulties. Many highlight that lawsuits are inherently unique. As result they state that the selection and justification of each variable in the measurement process is particularly difficult because there are no comparable cases or historical data to use as a reference point.

### ***Legal costs***

93. Some respondents ask the Board to clarify the measurement guidance in Example 1 because this states that costs associated with the lawsuit are considered in measuring the stand ready obligation. Respondents think that this suggests that the entity should accrue expected future costs and are unsure how this relates to the prohibition on recognising a liability for future operating losses.
94. One respondent also believes that the ED does not address specific economies relating to law suits. This respondent believes that the true economic cost of standing-ready to act as the court directs and the likelihood of an adverse court judgement is already reflected in the cost to retain credit facilities (ie the rate at which the entity is able to borrow).

### ***Implications of disclosure requirements***

95. Respondents also comment that the outcome of a lawsuit may be unduly influenced by recognition and the disclosure of sensitive information. Respondents believe that earlier recognition of a liability will be prejudicial to a successful defence and that quantification of the liability will establish a minimum for damages. Moreover, in a jury trial the recognition of a liability may be construed as an admission of guilt.
96. Respondents located in jurisdictions where subsidiary accounts are placed on the public record are also concerned. Respondents note the materiality threshold applied to subsidiary accounts is likely to be lower than that applied to the Group accounts

therefore sensitive information may become publicly available. Respondents have similar concerns about low materiality thresholds for smaller companies.

97. A few respondents suggest that the Board expand the prejudicial disclosure exemption (paragraph 71) to also cover the disclosure requirements of paragraph 67. These require an entity to present the carrying amount of the liability at the period end together with a description of the obligation for each class of liability. They note that this would protect litigants from disclosing potentially damaging information.

## COMMENT LETTER SUMMARY ON THE PROPOSED AMENDMENTS TO IAS 19

**Principle 1: Termination benefits are employment benefits provided in connection with the termination of an employee's employment before the normal retirement date.**

*The definition of termination benefits in the current IAS 19 includes employee benefits payable if an employee decides to accept voluntary redundancy in exchange for those benefits. The ED proposes to clarify that benefits payable in exchange for a decision to accept voluntary redundancy are termination benefits only if the benefits are offered for a 'short period'. Other employee benefits offered to encourage employees to leave before the normal retirement date are post-employment benefits.*

98. The majority of respondents agree with the Board's proposal. However, these respondents make the following recommendations:
- (a) *Define what is meant by a 'short period'.* Respondents request clarity about the term 'short period'. Some interpret this to be the same as the minimum retention period; others a short period of service post-acceptance; and still others the period of time for which the offer is open. Many respondents think that clarifying what the term means is necessary to prevent inconsistent application. Some suggest guidance.
  - (b) *Consider the overall substance of the agreement, not just the short time period.* Many respondents state that a short time period is just one factor differentiating termination benefits from post-employment benefits. Several respondents comment that the economic substance of the overall agreement should be considered, rather than the legal form. Others suggest the inclusion of additional factors, including whether the offer is an exceptional offer rather than a recurring offer for early departure; the existence of vesting conditions; and whether the offer is limited to certain employees.
99. A small number of respondent disagree with the proposal. Others (both those who agree and those who disagree) query how the revised definition will apply to specific circumstances. These questions are mainly raised by respondents based in continental Europe and include the following examples:

- There may be instances when a reduction of working hours through to retirement date is offered (without a proportional decrease in salary) as opposed to a one-off payment for termination. Some respondents request that the Board provide guidance for this circumstance.
- Restructuring plans may cover several years and termination benefits are offered over an extended period of time. Differentiation on the basis of a short time period may mean that decisions with the same substance are accounted for differently.
- Some voluntary termination plans require an employee to prepare a redeployment plan, which takes some time during which the employee remains in service. However, the time does not change the nature of the compensation received at the end of the period.
- Labour law may stipulate long periods prior to the termination of employment (eg Altersteilzeit in Germany). Respondents think that the definition 'short period' is inappropriate in these circumstances.

**Principle 2: A liability for termination benefits is recognised when incurred.**

*The current IAS 19 states that termination benefits should be recognised when the entity is demonstrably committed to either terminating the employment of employees before the normal retirement date or to providing termination benefits to encourage voluntary redundancy. The ED proposes that involuntary benefits should be recognised when the entity has communicated its plan to the affected employees and specific criteria are met; and voluntary benefits should be recognised when the employee accepts the employer's offer.*

***Involuntary termination benefits***

100. The majority of respondents agree with the Board's proposal. However, several respondents note that it is not clear whether communication would be required to the group of employees, of whom a proportion will be affected, or to the specific individuals who will be affected. Two respondents also suggest that communication with employee representatives is sufficient to fulfil this requirement.
101. One respondent suggests that it may be more appropriate to account for involuntary termination benefits as post-employment benefits arising under a constructive obligation.

***Voluntary termination benefits***

102. Some respondents agree with the proposed recognition point for voluntary termination benefits but many disagree. The two main concerns expressed are:
- (a) *Inconsistency with the proposed amendments to IAS 37.* Several respondents note that an entity creates an unconditional obligation when it makes the offer of benefits to employees because it must stand-ready to honour the offer if the employee accepts. Respondents also disagree with the Board's conclusion that an entity has the discretion to withdraw an offer of voluntary redundancy until the employee accepts the offer. Respondents (particularly those from continental Europe) argue that even in the absence of legal enforceability, a constructive obligation often exists at the point of offer<sup>1</sup>. Therefore respondents recommend that communication of the offer should be the

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<sup>1</sup> For example, an entity may create a valid expectation on which others can reasonably rely through agreement with trade unions. German respondents also note that labour legislation effectively prevents subsequent withdrawal of an offer. One Indian respondent also notes that the procedures for voluntary redundancy in that country are such that an employee can apply for voluntary redundancy but is not entitled to receive benefits until the *employer* has accepted the application.

recognition point for voluntary termination benefits. Uncertainty about the level of acceptance should be reflected in the measurement of the liability.

(b) *Inconsistency with the recognition point for involuntary termination benefits.*

Some respondents do not believe it is necessary to distinguish between voluntary and involuntary termination benefits. These respondents note that these benefits may be offered as part of the same package and are negotiated and communicated simultaneously. Similarly, some respondents comment it is often made clear that involuntary redundancies will be made on less generous terms if sufficient voluntary acceptances are not received.

Respondents state that in substance the involuntary and voluntary benefits are the same, therefore a common recognition point is appropriate.

103. One respondent also notes that voluntary termination benefits will be open for acceptance for a defined period of time, therefore individual acceptance may be spread over several months. They suggest it may be practical to specify a single representative date for accounting purposes so that companies do not have to invest time and expense in ascertaining the materiality of using this simplified approach.

**Principle 3: Benefits provided in exchange for future employment services are recognised over the future service period.**

*The ED proposes three criteria for determining when involuntary termination benefits are provided in exchange employees' future services. These are when the benefits (a) are incremental to what the employees would otherwise receive in accordance with the terms of an on-going plan; (b) do not vest until employment is termination; and (c) are provided to employees who will be retained beyond the minimum retention period.*

104. The majority of respondents agree that these criteria are appropriate. However, some also query why the same criteria are not also applicable to voluntary termination benefits. Some also suggest amendments to the current criteria to clarify them.
105. The minority of respondents who disagree with the proposals do so for a variety of reasons. These include:
- Distinguishing between the legal minimum termination benefits and any enhancements to retain staff for longer than the minimum notice period is not meaningful and diverges from SFAS 146.
  - The three specific criteria are unnecessary. An assessment of the individual facts and circumstances is sufficient and will enable application of the principle in all countries regardless of differences in labour and social policy models.
  - Restructuring plans can involve incremental benefits beyond the terms of an existing plan which are for social and business reasons. These benefits may be a consequence of the restructuring, not for future service. Therefore it is inappropriate to expense them over the service period.

## OTHER COMMENTS ON THE PROPOSED AMENDMENTS TO IAS 19

### *General comments*

106. Two respondents are concerned that the introduction of prescriptive requirements is a move away from a principles based approach and two respondents question the value of piecemeal changes at this time given IAS 19 has already been identified as a Standard requiring significant revision.

### *Specific comments*

107. Two respondents note the effect of the proposed amendments on the recognition timing for curtailments.
108. Another respondent notes that the proposed approach to recognising non-financial liabilities in IAS 37 may also have significant implications for liabilities associated with employee benefits. For example, they argue that an employee contract specifying a right to payment in the event of a redundancy gives rise to a stand ready obligation. Therefore, the entity should recognise a liability at the start of the contract.
109. One respondent suggests that the Board considers disclosure of voluntary and involuntary termination benefits similar to paragraph 20 of SFAS 146 to provide useful information about the nature and timing of the benefits, including cash flow implications.