

## **INTERPRETATION OF [DRAFT] FRS**

### **LIABILITIES ARISING FROM PARTICIPATING IN A SPECIFIC MARKET — WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT**

Comments to be received by 11 January 2005

## INVITATION TO COMMENT

The Council on Corporate Disclosure and Governance (CCDG) invites comments on any aspect of this draft Interpretation *Liabilities arising from Participating in a Specific Market—Waste Electrical and Electronic Equipment*. Comments are most helpful if they indicate the specific paragraph to which they relate, contain a clear rationale and, where applicable, provide a suggestion for alternative wording.

**Comments should be submitted in writing, so as to be received by 11 January 2005, preferably by email to: [accounting\\_stds@acra.gov.sg](mailto:accounting_stds@acra.gov.sg) or addressed to:**

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# INTERPRETATION OF [DRAFT] FRS X

## Liabilities arising from Participating in a Specific Market - Waste Electrical and Electronic Equipment

Interpretation of [draft] FRS X *Liabilities arising from Participating in a Specific Market - Waste Electrical and Electronic Equipment* ([draft] INT FRS X) is set out in paragraphs 1-9. [Draft] INT FRS X is accompanied by a Basis for Conclusions. The scope and authority of Interpretations are set out in the *Preface to the Interpretations of Financial Reporting Standards*.

### References

- *FRS 8 Accounting Policies, Changes in Accounting Estimates and Errors*
- *FRS 37 Provisions, Contingent Liabilities and Contingent Assets*

### Background

- 1 Paragraph 17 of FRS 37 specifies that an obligating event is a past event that leads to a present obligation that an entity has no realistic alternative to settling.
- 2 Paragraph 19 of FRS 37 states that provisions are recognised only for 'obligations arising from past events existing independently of an entity's future actions'.
- 3 The European Union's Directive on Waste Electrical and Electronic Equipment (WE&EE) has given rise to questions about when the liability for the decommissioning of WE&EE for certain electrical goods manufacturers should be recognised.
- 4 The Directive prescribes that the cost of waste management for equipment that has been sold to private households before 13 August 2005 ('historical household equipment') will fall to producers of that type of equipment who are in the market in the period specified in the applicable legislation (the measurement period). They have to contribute to costs proportionately 'e.g. in proportion to their respective share of the market by type of equipment.'
- 5 This [draft] Interpretation provides guidance on the requirements in FRS 37 relating to what constitutes an obligating event.

### Issue

- 6 If an entity has an obligation to contribute to waste management costs based on its share of the market in a measurement period, when does a liability arise in accordance with paragraph 14(a) of FRS 37?
  - *Did it arise with the manufacture or sale of the historical household equipment?*
  - *Does it arise when the waste management costs are incurred?*
  - *Does it arise as a result of participation in the market in the measurement period?*

### Consensus

- 7 Participation in the market in the measurement period is the obligating event in accordance with paragraph 14(a) of FRS 37. A liability does not arise when the products have been manufactured or sold as no obligation is present unless a market share exists in the

measurement period. The liability may or may not arise at the same time as waste management costs are incurred.

### **Effective date**

- 8 An entity shall apply this [draft] Interpretation for annual periods beginning on or after [date to be set at three months after the Interpretation is finalised]. Earlier application is encouraged. If an entity applies the [draft] Interpretation for a period beginning before [above date], it shall disclose that fact.

### **Transition**

- 9 Changes in accounting policies shall be accounted for in accordance with FRS 8.

## **Basis for Conclusions**

*This Basis for Conclusions accompanies, but is not part of, the draft Interpretation.*

### **Introduction**

BC1 This Basis for Conclusions summarises the considerations in reaching the consensus.

### **Background**

BC2 The European Union's Directive on Waste Electrical and Electronic Equipment regulates the collection, treatment, recovery and environmentally sound disposal of waste equipment. The Directive became effective on 13 February 2003.

BC3 The Directive distinguishes between 'new' and 'historical' waste. New waste relates to new products sold later than 13 August 2005. All products sold before that date are deemed to be historical waste for the purposes of the Directive.

BC4 The draft Interpretation refers to historical waste from private households. Under the Directive, the costs of managing this waste are to be borne collectively by producers. Producers operating in the market in the measurement period are required to bear the costs attributed to that period (which may or may not be the costs incurred in that period). Producers will be required to contribute in proportion to their respective share of the market by type of equipment.

BC5 The issue on whether to include in the proposed Interpretation the costs of management of historical waste other than for private households was considered. Under the Directive the costs of such waste management are borne by the holders of the equipment unless the equipment is replaced, in which case the costs fall to the suppliers. It was agreed that a liability has to be recognised by the holder of the equipment as long as the equipment is not replaced and that thereafter the supplier of the new equipment has to recognise the liability. Since this accounting treatment is clear from FRS 37, it was noted that the scope of the draft Interpretation need not be extended to cover the costs of management of historical waste other than for private households.

### **Basis for Consensus**

BC6 The Directive states that it is participation in the market in the measurement period that triggers the obligation to meet the costs of waste management.

BC7 For example, an entity selling electrical equipment in 20x4 has a market share of 4 per cent. It subsequently discontinues operations and is thus no longer in the market when the waste management costs for its products are attributed to 20x7. With a market share of 0 per cent in 20x7, the entity's obligation is zero. However, if another entity enters the market for electronic products in 20x7 and achieves a market share of 3 per cent in that period, then that entity's obligation for the costs of waste management from earlier periods will be 3 per cent of the total costs of waste management attributed to 20x7, even though the entity was not in the market in those earlier periods and has not produced any of the products for which waste management costs are attributed to 20x7.

BC8 It was noted the effect of the Directive is that the making of a sale in the measurement period is the 'past event'. Aggregate sales for the period determine the entity's obligation for a proportion of the costs of waste management attributed to that period, even if those costs are incurred in another period.

BC9 The issue on whether its conclusion is undermined by the principle that the entity will continue to operate as a going concern was considered. However, the entity's ability to avoid the obligation relates only to whether it can decide to exit part of the market (i.e. a partial continuation of operations) or the whole of the market. If the entity will continue to operate in

the future, it treats the costs of doing so simply as future costs. For these future costs, paragraph 18 of FRS 37 emphasises that 'Financial statements deal with the financial position of an entity at the end of its reporting period and not its possible position in the future. Therefore, no provision is recognised for costs that need to be incurred to operate in the future.'

- BC10 An argument that manufacturing or selling new products for use in private households constitutes a past event that gives rise to an obligation was considered. Allocating waste management costs on the basis of market share would then be a matter of measurement rather than recognition. It was observed that under paragraph 17 of FRS 37, an obligating event is an event that creates a legal or constructive obligation that results in an entity having no realistic alternative to settling that obligation. In accordance with paragraph 19 of FRS 37, the obligation must arise independently of the entity's future actions.
- BC11 Under the Directive, the future actions of the entity have an impact on the existence of the obligation. As soon as an entity no longer has a market share in a measurement period, it no longer faces an obligation for the waste management costs relating to the products of that type which it had previously manufactured or sold.