COMMITTEE OF EUROPEAN SECURITIES REGULATORS

EFRAG

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RE: EFRAG's amended draft response on the IASB's Exposure Draft *Measurement of Liabilities in IAS 37*

EFRAG published on 22 February 2010 its draft comment letter on the IASB's Exposure Draft (ED) *Measurement of Liabilities in IAS 37*. Following the publication by the IASB in February 2010 of a *Working Draft* of the entire new standard replacing IAS 37 on its website, EFRAG issued an amended comment letter on 13 April 2010.

The Committee of European Securities Regulators (CESR) has considered, through its standing committee on financial reporting (CESR-Fin), EFRAG's amended draft comment letter on the IASB's Exposure Draft (ED) *Measurement of Liabilities in IAS 37*.

We thank you for this opportunity to comment on your amended draft response and we are pleased to provide you with the following comments.

CESR's main concerns, as expressed in our original comment letter on EFRAG's initial draft response (CESR 10-390), relate to the due process applied on the IASB's project to amend IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*. We share the views of EFRAG and of the two dissenting Board members that the IASB should re-expose the entire proposed standard and not just the proposed measurement requirements because measurement objectives and methods and recognition criteria are closely related.

A *Working Draft* of the entire revised standard was published by the IASB in February 2010 but does not seek comments from constituents. An IASB staff paper was also published not long before the original deadline for comments 'to help people obtain a high-level understanding' of the new recognition criteria on liabilities arising from law suits. CESR believes however that the two documents are key both to understanding the proposals themselves and what the IASB is seeking to achieve.

Ideally, we do not think that the IASB should have to provide further guidance on how to interpret its proposals after the publication of an ED. Rather the IASB should clarify its concerns and reflect them appropriately in the future pronouncements to avoid uncertainty in future application.

CESR does not think that the benefit provided by these additional publications outweighs the disadvantages associated with the partial re-exposure process we outlined in our initial comment letter. We would in particular like to recall to mind that there is significant divergence among Board members on the inclusion of a risk margin and profit margin in the measurement of a liability. We think that such a significant number of dissenters is an indication that further deliberations might be helpful.

We would consequently urge the IASB to reconsider the due process applied to this project. As we are not aware of clear indications (amongst other things based on the enforcement cases in CESR's database) that the current standard has led to significant or extensive application problems that would oblige the IASB to fix the standard quickly, we would strongly encourage the IASB to consider the comments it has received on this ED, to reflect further on the proposed amendments and to re-expose the entire proposed standard later.

I would be happy to discuss all or any of these issues further with you.

Yours sincerely,

Fernando Restoy

Chair of CESR-Fin