



Memorandum

To:	AASB members	Date:	13 May 2014
From:	Nikole Gyles	Agenda Item:	Agenda Paper 10.1
Subject:	Levies – Review of IFRS IC Agenda Decision	File:	

Action

Decide whether to take any further action on the issue of accounting for levies that are subject to a minimum activity threshold, in light of the IFRS Interpretations Committee final Agenda Decision – identification of a present obligation to pay a levy that is subject to a pro rata activity threshold as well as an annual activity threshold.

Background

At the April 2013 and July 2013 AASB meetings, the Board discussed the potential implications of having issued IFRIC 21 *Levies* in Australia. The below extract from the minutes from the July 2013 AASB meeting provides a summary of the key issues discussed by the Board:

Further to issuing IFRIC 21 *Levies* unamended in Australia as Interpretation 21 *Levies* and following the Board's discussions in April 2013 the Board considered how the Interpretation, if applicable, might affect the accounting in the fixed price phase of the Carbon Pricing Mechanism (CPM). The Board came to the tentative view that judgement would be required in determining how the threshold criterion included in the Interpretation would be applied in recognising carbon emission liabilities, at least in some circumstances (for example, when there is separation, by some periods, between the act that causes emission and emissions taking place in a period to which thresholds apply).

The Board noted that, depending on how the Interpretation's scope exclusion is applied, the Interpretation might be read as requiring a liability to be recognised when, and only when, the annual threshold level of emission specified in the legislation is met by a continuing entity. An alternative view is that the obligating event is the emission of carbon and a liability is recognised when it is probable the annual threshold will be exceeded.

The Board also noted that how broadly the term 'threshold' is interpreted is a matter of judgement. Conceivably it could be seen to embrace, in principle, vesting of long service leave and pension entitlements. The Board decided that its concerns about Interpretation 21 should be raised with the IFRS Interpretations Committee citing various examples of analogous circumstances, not limited to the CPM, such as some State-based payroll taxes. The Board also decided to inform constituents that, in the meantime, emitter entities would need to use judgement in considering the potential effect of AASB 137 *Provisions, Contingent Liabilities and Contingent Assets* and Interpretation 21.

In July 2013 the Board wrote to the IFRS Interpretations Committee to raise the concerns in relation to the accounting for levies that are subject to a minimum activity threshold discussed at the July 2013 AASB meeting.¹

In response, the IFRS Interpretations Committee issued a Tentative Agenda Decision in November 2013.² At its December 2013 meeting, the Board noted the Committee's tentative agenda decision in relation to the issue and, after noting some staff had reservations about the Tentative Agenda Decision, decided not to raise any issues with the Committee at that stage.

IFRS Interpretations Committee – March 2014

The Committee subsequently issued a Final Agenda Decision outlining reasons for not adding the issue to its agenda in the March 2014 *IFRIC Update*:

IFRIC 21 – Levies – identification of a present obligation to pay a levy that is subject to a pro rata activity threshold as well as an annual activity threshold

In May 2013, the IASB issued IFRIC 21 *Levies*, which is effective for annual periods beginning on or after 1 January 2014, with earlier application permitted. IFRIC 21 provides an interpretation of the requirements in IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* for the recognition of liabilities for obligations to pay levies that are within the scope of IFRIC 21.

The Interpretations Committee received a request to clarify how the requirements in paragraph 8 of IFRIC 21 should be interpreted in identifying an obligating event for a levy. The Interpretations Committee discussed regimes in which an obligation to pay a levy arises as a result of activity during a period but is not payable until a minimum activity threshold, as identified by the legislation, is reached. The threshold is set as an annual threshold, but this threshold is reduced, pro rata to the number of days in the year that the entity participated in the relevant activity, if its participation in the activity started or stopped during the course of the year. The request asks for clarification on how the thresholds stated in the legislation should be taken into consideration when deciding “the activity that triggers the payment of the levy” in paragraph 8 of IFRIC 21.

The Interpretations Committee noted that in the circumstance described above, the payment of the levy is triggered by the reaching of the annual threshold as identified by the legislation. The Interpretations Committee also noted that the entity would be subject to a threshold that is lower than the threshold that applies at the end of the annual assessment period if, and only if, the entity stops the relevant activity before the end of the annual assessment period. Accordingly, the Interpretations Committee observed that in the light of the guidance in paragraph 12 of IFRIC 21, the obligating event for the levy is the reaching of the threshold that applies at the end of the annual assessment period. The Interpretations Committee noted that there is a distinction between a levy with an annual threshold that is reduced pro rata when a specified condition is met and a levy for which an obligating event occurs progressively over a period of time as described in paragraph 11 of IFRIC 21; until the specified condition is met, the pro rata reduction in the threshold does not apply.

On the basis of the discussions above, the Interpretations Committee thought that the guidance in IFRIC 21 and IAS 37 is sufficient and noted that it is unlikely that significant diversity in

¹ http://www.aasb.gov.au/admin/file/content102/c3/AASB_Letter_to_IFRS_IC_Levies.pdf (accessed 6 May 2014)

² <http://media.ifrs.org/2013/IFRIC/November/IFRIC-Update-November-2013.pdf> (accessed 6 May 2014)

interpretation on this issue will emerge. Accordingly, the Interpretations Committee decided not to add this issue to its agenda.

AASB staff recommendation

In light of the Boards December 2013 decision to not write to the Committee in relation to the Tentative Agenda Decision, and because the Agenda Decision is not substantively different from the Tentative Agenda Decision, AASB staff can accept the Agenda Decision. Although, some staff continue to disagree with the technical view reflected in the Agenda Decision, they respect the process by which the Committee developed the Agenda Decision. These staff are hopeful that the matter will be addressed via the IASB's review of its Conceptual Framework.

AASB staff consider that the Committee's Agenda Decision adequately addresses the issue of accounting for levies that are subject to a minimum activity threshold, and is clear that the activity that triggers the payment of the levy is passing the annual threshold. On this basis, AASB staff recommend that the Board not take any further action in relation to this issue at this stage.

AASB staff consider that the Committee's Agenda Decision on the topic provides sufficient clarification as to how 'the activity that triggers the payment of the levy' should be interpreted in paragraph 8 of IFRIC 21 in assessing whether a liability should be recognised.

Question to Board members:

Does the Board agree with the staff's recommendation to not take any further action in relation to the issue of accounting for levies that are subject to a minimum activity threshold at this stage?