

## MINUTES



**To:** Board Members

**From:** Strange (ext 442) and Duke (ext 297)

**Subject:** Minutes of November 22, 2005  
Board Meeting—Uncertain Tax Positions: Scope, Recognition, and Measurement

**Date:** December 7, 2005

**cc:** Smith, Bielstein, Leisenring, Project Team, Mahoney, Getz, Geary, Beswick, Gabriele, Carney, Polley, Swift, Petrone, FASB Intranet, McGeachin (IASB), Upton (IASB)

*The Board meeting minutes are provided for the information and convenience of constituents who want to follow the Board's deliberations. All of the conclusions reported are tentative and may be changed at future Board meetings. Decisions become final only after a formal written ballot to issue a final Statement or Interpretation.*

**Topic:** Uncertain Tax Positions: Scope, Recognition, and Measurement

**Basis for Discussion:** Board Memorandum 15, dated November 9, 2005, and Board Memorandum 16, dated October 9, 2005

**Length of Discussion:** 9:00 a.m. to 11:00 a.m.

**Attendance:**

Board members present:	Herz, Trott, Crooch, Schipper, Batavick, Seidman, and Young
Board members absent:	None
Staff in charge of topic:	Thomas
Other staff at Board table:	Cassel, Golden, Smith, and Strange
Outside participants:	None

**Summary of Decisions Reached:**

At today's meeting, the Board decided:

1. The provisions of the final Interpretation will broadly apply to all tax positions taken by an enterprise.
2. The Board will not specifically deliberate issues concerning the uncertainty over new legislation in this project.
3. The final Interpretation will not prescribe a specific unit of account to be used by an enterprise. The final Interpretation will indicate that the appropriate unit of account is a matter of facts and circumstances and should be based upon the manner in which the enterprise supports and documents its tax return and the level at which issues are addressed with taxing authorities.
4. An entity should presume that a taxing authority will examine a tax position when evaluating the position for recognition and measurement; therefore, consideration of the risk of examination is not appropriate.
5. To adopt a benefit recognition model with a two-step approach, a more-likely-than-not recognition criterion, and a best estimate measurement attribute. In applying the provisions of the Interpretation, there will be distinct recognition and measurement evaluations. The first step is evaluating the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not, based solely on the technical merits, that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is the measurement of the appropriate amount of the benefit to recognize. The amount of benefit to recognize will be measured using the best estimate of the amount that will be sustained. The term best estimate is used consistent with the use of the term in FASB Concepts Statement No. 7, *Using Cash Flow Information and Present Value in Accounting Measurements*, which is similar to the statistical mode. The tax position should be derecognized when it is no longer more likely than not of being sustained.

**Objective of Meeting:**

The meeting's objective was for the Board to redeliberate (a) scope and (b) alternative accounting models for uncertain tax positions. The objective of the meeting was met.

**Matters Discussed and Decisions Reached:**

1. Mr. Thomas began by presenting the Exposure Draft comment letter analysis to the Board. Mr. Thomas asked if Board members had any questions regarding the comment letter analysis (Memorandum 15).
2. Ms. Strange opened redeliberations by stating that the Exposure Draft broadly applies to all tax positions taken by an enterprise, including business combinations. She noted that the Board had considered this issue during its original deliberations and concluded the Interpretation should be broadly applied. However, several comment letters indicated that the Board should pick one of the following approaches:
  - (a) Define an uncertain tax position and apply the provisions of the final Interpretation only to tax positions meeting those defined attributes
  - (b) Limit the scope to tax positions that are outside the normal course of business
  - (c) Limit the scope to permanent differences.

Ms. Strange stated that the staff has reconsidered the issue and decided because any definition would be rules-based and would introduce additional practice issues of defining what positions the document would be applicable to, the staff recommends the final Interpretation broadly apply to all tax positions taken by an entity, including business combinations.

3. Mr. Trott supported the staff's recommendation. He noted that the Board has struggled in the past with defining certain items within a general population, for example, the definition of "qualified" special purpose entities, and he feels it is not a useful exercise.

4. Mr. Batavick supported the staff's recommendation and noted that he found no conceptual basis for not applying the final interpretation to all tax positions.
5. Mr. Crooch also supported the staff's recommendation. Mr. Herz asked if any Board members disagreed with the staff's recommendation, to which none disagreed. Ms. Schipper then asked the staff to consider changing the title of the final Interpretation.
6. Mr. Thomas then stated that another issue that arose during the comment letter process is whether or not uncertainty over new legislation should be considered during the uncertain tax positions redeliberations. Often, when new legislation is proposed, some clarifying activity is required that may take the form of supplemental legislation, or rules or rulings from the Treasury Department, or the Internal Revenue Service. Based on discussions with risk and quality technical tax partners, the staff understands that a significant amount of subsequent legislation is often required for an enterprise to appropriately implement a change in tax law. He stated that the staff recommends the Board not specifically deliberate issues associated with a change in legislation for this project, or create special rules in the final Interpretation applicable to a change in legislation.
7. Mr. Trott supported the staff's recommendation. Mr. Batavick also agreed and stated that the timing and interpretation of legislative changes are factors to be considered when evaluating the facts and circumstances surrounding an entity's tax positions. Mr. Crooch expanded upon Mr. Batavick's statement by adding that such legislative changes must be examined by an entity to arrive at its tax position.
8. Mr. Leisenring noted that language should be added to the basis to explain that many comment letters suggested they would like to anticipate supplemental interpretative guidance which may have consequences for FASB Statement No. 109, *Accounting for Income Taxes*. He suggested that the Board would not want to amend Statement 109 in any way that will undermine Statement 109's focus on enacted tax law.

9. Mr. Thomas stated that a question has arisen about whether or not the failure to take an otherwise valid tax position should be specifically addressed by the Board in its redeliberations. Based on Board members' comments at the education session last week, the staff is not presenting this issue to the Board for deliberations at this time. The staff will further consider whether to present the issue for the Board's consideration at a subsequent Board meeting.
10. Mr. Thomas then stated that the Exposure Draft indicated that the appropriate unit of account is a matter of individual facts and circumstances. Many respondents to the Exposure Draft indicated that the FASB should give more concrete guidance on the unit of account. The staff has considered those comments; however, the staff recommends that the Board should not further address the unit of account, other than to indicate in the final Interpretation that the unit of account is a matter of the facts and circumstances (in light of all available evidence) based on the manner in which an enterprise manages its business, and on the financial and operational systems that are used to control the business. .
11. Ms. Seidman agreed that the unit of account is based on facts and circumstances; however, she preferred that the nature of the facts and circumstances be based on the the manner in which the enterprise addresses issues with the taxing authorities rather than based on how management runs the business. Mr. Young agreed with Ms. Seidman's comments. Ms. Schipper also supported the staff's recommendation consistent with Ms. Seidman's refinement. No Board members objected to the staff's recommendation.
12. Ms. Strange then stated that many respondents to the Board's request for comments disagreed with the Exposure Draft's presumption of audit. These respondents believed that they should be allowed to consider the risk of examination when evaluating their tax positions for recognition and measurement.

13. Ms. Strange indicated that the staff recommends that examination by a taxing authority should be presumed in the recognition and measurement of tax benefits.
14. Ms. Seidman supported the staff's recommendation for the reasons articulated in the memorandum as well as for one additional reason. She stated that considering the risk of examination in the identification of the potential additional liability had broad implications that are inconsistent with the Board's treatment of any other liabilities.
15. Mr. Young stated that he disagreed with the staff's recommendation. He stated that he believes requiring presumption of examination will materially misrepresent future cash flows in the financial statements of small companies. For smaller companies, he would ignore examination risk but require that any tax position taken be at substantial authority before the benefits are recognized in the financial statements. For positions that do not meet substantial authority, the companies would recognize the benefits of the position when the statute of limitations expires. Regardless of what the Board decides on examination risk, Mr. Young stated that he supported a minimum recognition threshold of substantial authority.
16. Mr. Batavick agreed with the staff's recommendation. He stated that it logically follows that examination risk should be assumed. His interpretation of the comment letters and roundtable comments was that the vast majority of constituents were comfortable with assuming that a tax position will be examined when accounting for tax positions.
17. Mr. Young stated that the majority of comments were from organizations that are regularly examined and that the comment process may not have given a factual representation of the issue for smaller companies that are not regularly examined by taxing authorities.
18. Ms. Schipper stated that she agreed with the staff's recommendation because the focus is on the definition of a liability and the definition of an obligating event.

19. Mr. Herz stated that Mr. Young's views were close to the minority view. Mr. Trott stated that the minority view did not raise the issue of examination risk. Mr. Golden stated that the minority view, as expressed in the Exposure Draft, would recognize positions that met substantial authority, which were measured using the best estimate, and assumed examination by a taxing authority. Mr. Herz disagreed and replied that the alternative view would measure the best estimate of anticipated payments, which would not require the presumption of examination.
20. Ms. Seidman asked that if the reason for the alternative view was to show expected cash flows, then why would a threshold be imposed at all.
21. Mr. Young responded that if there is no minimum legal support for a tax position, it should not be recognized and the Board should not condone accounting for illegal acts.
22. Mr. Trott stated that he believed the basis for conclusions of the Exposure Draft adequately explained why examination must be presumed in the recognition and measurement of tax benefits. Without presuming examination, the user would have no understanding of the risk and uncertainty of cash flows surrounding the exposure of uncertain tax positions. Additionally, he indicated that he believes it is inappropriate to speculate on the performance of a third party (the taxing authority) when accounting for the uncertainty. He stated that supporting Mr. Young's suggestions would encourage noncompliance in filing tax returns.
23. Mr. Young stated that before considering the confidence level that management has in the sustainability of a tax position, the position must meet some minimum legal threshold to be recognized. He stated that this was needed because of the broad application of Statement 109 to income tax systems other than the U.S. federal tax system.
24. Mr. Crooch stated that he agreed with the staff's recommendation. Mr. Herz stated that he agreed more with Mr. Young. He thinks the bigger issue is how the tax system is viewed. He also stated that other tax systems created additional issues. He stated he would not object to the presumption

of examination risk, but that he did believe it presented a risk of misstating the extent of the liability and the amount of likely future cash flows. He stated that five Board members supported the staff's recommendation (GJB, GMC, KAS, LFS, EWT), one did not object (RHH), and one objected (DMY).

25. Mr. Thomas stated that the Exposure Draft prescribes the use of a benefit recognition model. Under a benefit recognition model, a stated confidence level would need to be met prior to the recognition of a benefit in the financial statements. The staff understands that the U.S. federal tax system is structured so that income tax is required to be paid on all revenues at the statutory rate, and all deductions and credits are a matter of legislative grace. Therefore, the structure of the U.S. federal tax system supports a benefit recognition model. The staff believes, however, that the current operation of the tax system supports the view that income taxes are an obligation, which would follow the impairment approach.
26. Mr. Thomas indicated that the staff had divergent views about how to present the topic for the Board's discussion such that it would be easy for constituents to follow the deliberations. For that reason, he indicated that staff had concluded to ask the Board members individual questions about the various topics impacting recognition and measurement. Mr. Thomas also stated that he understands some Board members might prefer to discuss the individual issues in a collective manner. Mr. Thomas indicated that he would address the issues sequentially, and for the first issue, while some staff members would prefer an impairment approach, the staff recommends the Board adopt a benefit recognition model.
27. Ms. Seidman stated that she began with the presumption that the U.S. income tax system is set up so that an entity owes taxes on the income it has earned. The system provides some provision to reduce the obligation to the extent that the entity qualifies. From a theoretical accounting standpoint, the issue can be looked at in two ways. One, an entity starts with a liability and then qualifies for each dollar of reduction of the liability. She stated that this is thinking about the system through a benefit recognition approach. Or two, an entity can determine how to measure the

ultimate liability that will be payable to the taxing authority, which would be the impairment approach. She stated that both approaches are supportable, but that the objective of the standard should result in accounting information that indicates the amount that the entity ultimately expects to pay. She stated that she could meet that objective either way, but that she preferred the benefit recognition model. She expressed reservation with the benefit recognition model included in the Exposure Draft because there were benefits the company expected to receive but were not included in the financial statements because the likelihood was less than probable. She expressed the same reservation about an impairment approach because there were benefits the company did not expect to receive that were included in the financial statements because the likelihood of not receiving the benefits was less than probable. Because of these concerns, she stated that neither seemed appropriate. She would look for a criterion that would produce accounting results that come closest to the amount expected to be realized. Using a more-likely-than-not threshold (for both recognition and derecognition) with a benefit recognition model allows the Board to reach the answer that she supports while minimizing the difference between the amount recognized in the financial statements and the amount ultimately paid. She stated that it was operationally difficult to implement a one-step approach, so she preferred a two-step approach. She supported the use of best estimate for measurement because it basically eliminates the difference between the benefit recognition and asset impairment approach.

28. Mr. Thomas then stated it was clear that Board members would prefer to discuss all of the recognition and measurement issues together. He stated that the staff's recommendation is to adopt:
  - a. A benefit recognition model
  - b. A two-step model. The first step is to determine if the tax position qualifies for recognition, based solely on the technical merits of the tax position, by evaluating all available evidence to determine if it

meets the recognition threshold. The second step is to measure the amount that the enterprise believes it would ultimately sustain as a benefit.

- c. A dual recognition threshold where recognition would occur when it is probable, as the term is used in FASB Statement No. 5, *Accounting for Contingencies*, that the tax position will be sustained upon audit by taxing authorities, including resolution of related appeals or litigation, if any. The tax position would be derecognized when it becomes more likely than not that the tax position will not be sustained.
  - d. A best estimate measurement attribute, with the term best estimate being used consistent with the term in Concepts Statement 7 to mean the most likely amount in the range of reasonably likely outcomes, which is similar to the statistical mode.
29. Mr. Thomas then asked the Board members to state which model they preferred, and asked if Board members supported a benefit recognition to state (a) whether they preferred a one- or two-step approach to recognition and measurement, (b) what confidence level should be required (if any) for recognition, and (c) which measurement attribute they would use.
30. Mr. Batavick stated that valid arguments could be made for either approach in this highly judgmental area. He concluded that the best answer for financial reporting that would be most operational and inject some discipline into the system would be a benefit recognition approach, using a two-step approach, with recognition and derecognition at more likely than not. From working through the examples and his understanding of how this area is managed, he concluded that using best estimate for measurement will yield a good result for financial reporting. It is the most appropriate measurement because it is the most frequently occurring value and it provides management with the appropriate ability to exercise judgment (in a highly judgmental area). Expected outcome would be difficult to communicate and follow because it has not been used in this area before.

31. Mr. Trott stated that he supported the benefit recognition model with the two-step approach. While he preferred the dual threshold of probable for recognition and more-likely-than-not derecognition, he would accept a single threshold at more likely than not. He stated that he supported the two-step approach because the issues that need to be thought through for tax purposes are not the end result. Many times, questions will be brought up as to the classification of taxable income (ordinary, capital gains, and dividends received deduction) or the methods for determining basis for an asset. These questions are separate from measurement and should be asked individually. Many different questions will need to be asked before management can arrive at a measurement. He stated that for measurement, he saw problems with best estimate. He questioned whether the Board could communicate its desired meaning of best estimate, and whether all possible outcomes would be considered or just those that are within the recognition criteria. He felt that it would be more operational to identify the minimum level of confidence needed to record an amount. He would record the amount that management can support as at least 70 percent confident of being sustained. He stated that concept is clearer and easier to communicate and that the measurement in the second step should consider the level of confidence obtained in the first step.
32. Mr. Leisenring stated that another way of looking at Mr. Trott's concern is that a more-likely-than-not recognition threshold may result in positions being measured at 100 cents on the dollar when they have only a 51 percent chance of being sustained. Mr. Trott stated that he was very concerned about how the two uncertainties (over if a position can be sustained and by how much) might interact. An entity may be very certain about the amount that can be sustained if the deduction is allowed, but uncertain as to whether the deduction will be allowed.
33. Mr. Golden stated that by meeting the more-likely-than-not threshold, an entity will probably enter into negotiations with the taxing authority. Management might be 20 percent confident of receiving \$20 (out of \$100), 40 percent confident of receiving \$60, and 20 percent confident of receiving

\$80. The company is 100 percent confident of receiving at least \$20, but the best estimate (from the range of all possible outcomes) is \$60. Mr. Trott stated that the comment letters questioned which range would be considered (possible outcome, outcomes that are at least more likely than not of occurring, and probable outcomes). Ms. Seidman stated that the Board should clarify that the range includes all possible outcomes, so \$60 would be recognized. Mr. Golden clarified that a company would examine all data points and select the most frequently occurring outcome (statistical mode), but not on a cumulative probability basis.

34. Mr. Crooch stated that he supported the benefit recognition model using a two-step approach. He preferred a recognition threshold of probable but would not object to more likely than not. Also, he supported the use of best estimate for measurement.
35. Mr. Young stated that he supported the impairment model with a one-step expected outcome approach because it has the best chance of accurately reflecting the obligation. He also stated that it is the closest approach to what the IASB is considering.
36. Ms. Seidman asked Mr. Young if the difference between the approaches they supported is that his approach would recognize positions with a confidence level between substantial authority and more likely than not, whereas her approach would not.
37. Mr. Young stated that the amount recognized for positions that both approaches would recognize would differ based on the distributions of possible outcomes.
38. Ms. Schipper stated that she agreed with the staff and Ms. Seidman's analyses that either approach is conceptually supportable; however, by starting with the principle that the entity should only recognize tax benefits to which it is entitled based on the weight of available evidence, then she is drawn to the benefit recognition model. The next question is how certain does management need to be on the technical merits of the position before a benefit can be recognized in the financial statements. While she prefers

probable, she would accept more likely than not; however, additional disclosures and reconciliations are needed at this threshold. Now she questions what number would be recorded for a position that is more likely than not of being sustained (based solely on the technical merits). One option is to select the best estimate from a range of all possible outcomes. She noted that this could result in recognizing an amount that is quite small, and according to paragraph 9 of the Exposure Draft present opposing evidence about having met the recognition threshold. She stated that the sentence had confused constituents and she supported removing it from the final standard. Another option is to select the best estimate from a truncated range of outcomes. All outcomes not meeting a certain threshold would be eliminated from consideration. While she understands Mr. Trott's concerns about recognizing close to 100 percent of the deduction when there is a little more than 50 percent chance of sustaining a deduction, she does not think the Board should be concerned about it if the Board decides to go with the single best estimate. The Board also could consider finding an expected outcome across either the full or truncated outcome distribution. The IASB has taken an approach like this using the entire distribution, and while she feels that it is a good measure, it has not been exposed and does not garner support from the majority of the Board members. At this time, it is not the appropriate measure for this project, but if this project were to be done anew, she would consider that approach further. For this project as it is now, she supports using the single best estimate from the range of all possible outcomes.

39. Mr. Cassel indicated that he believed Board members agreed on what best estimate meant and that a single step approach was more operational.
40. Mr. Thomas disagreed with Mr. Cassel's comment and he indicated that he believed Board members agreed on what best estimate meant. He further stated that removing a discrete judgment evaluating whether a position meets a stated confidence level would introduce speculation into financial accounting and would not be consistent with the requirement to prove compliance with a system of internal controls as required by the Sarbanes-

Oxley Act of 2002. The ability to merge recognition and measurement and document the amount of dollars expected to be without considering that discrete judgment about the technical merits of a tax position seems to be impracticable. Ms. Schipper stated that she agreed with Mr. Thomas.

41. Mr. Herz stated that his original preference is not where the majority of the Board seems to be, and after abandoning what he considers to be the more representationally faithful measure of the asset, liability, and future cash flows, he prefers an approach that is the most practical and disciplined. He would vote for a two-step approach at more likely than not using a best estimate. He would prefer to recognize the benefit based on the technical merits when it is more likely than not that all or substantially all of the benefit will be sustained. He stated that all of the issues were intertwined and that the approach was attempting to make a surgical cut around the validity of the position and the amount that the entity will receive even though the real world does not always work that way. He also would prefer that the final standard include guidance indicating that after the initial assessment about the validity of a tax position is made, there must be substantial changes in the underlying facts and circumstances to subsequently recognize or derecognize a position. Later in the meeting, Mr. Batavick and Ms. Seidman supported this view on subsequent recognition and measurement. Mr. Herz stated that he would go along with the majority view.
42. Ms. Schipper stated that she understood Mr. Herz to be in favor of not subsequently remeasuring the amount recognized unless new, objective evidence supported a new measurement. Ms. Schipper stated that the staff had not brought any subsequent measurement issues to the Board for deliberations.
43. Mr. Leisenring asked Ms. Seidman, Ms. Schipper, and Mr. Batavick why an approach that recognizes at more likely than not and takes the best estimate of all possible outcomes is conceptually or practically superior to an expected outcome approach. Ms. Schipper stated that although she was

not sure that it was conceptually superior, she believes it was practically superior.

44. Mr. Trott stated that he believed entities were implicitly using expected outcomes when they select a best estimate. Mr. Herz stated that more precision would be required to find a true expected outcome versus finding that one number is clearly the most likely. Ms. Seidman stated that the feedback from the comment letters indicated that even when using the same data points, finding an expected outcome requires a more detailed analysis. Mr. Herz stated that he believed entities would reverse engineer a statistical expected outcome if they were asked to do so based on the number they expect to sustain. Mr. Batavick stated that the highly judgmental nature of tax positions and the need for reexposure if expected outcome were selected were practical considerations.
45. Mr. Smith asked why the Board was not exploring Mr. Trott's approach, which would limit the distribution to those outcomes that were above a specified probability level.
46. Mr. Trott suggested that the staff give the Board some examples exploring the different approaches to selecting best estimate.
47. Mr. Batavick stated that entities need the flexibility of using all the outcomes when they exercise the judgment that goes into accounting for these types of positions. He stated that he believed the Board can articulate his approach and that the Board should let judgment prevail. Ms. Seidman agreed. She stated that she did not believe that truncating the distribution is consistent with the way the Board has defined best estimate in the past.
48. Mr. Herz agreed provided that there is a way to discriminate between the validity of the tax position and the amount recognized in the financial statements. He stated that he was concerned about being able to discriminate between validity and the proper amount when all possible outcomes are considered.

49. Mr. Trott expressed his preference that the final interpretation also amend Statement 5, *Accounting for Contingencies*, to state that Statement 5 no longer applies to income taxes. Ms. Seidman agreed.
50. Mr. Thomas stated that he understood many Board members were attracted to an expected outcome approach similar to what the IASB has proposed. He questioned whether Board members would like to solicit feedback from a working group.
51. Mr. Trott stated he would like the staff to do more work on expected outcome measurement and then bring it to the Board along with disclosure possibilities.
52. Mr. Batavick stated that he felt the Board supported the best estimate approach and he stated that he did not want staff to do a lot of work on the expected outcome approach. He noted additional work would delay the issuance of the final interpretation. Ms. Seidman agreed.
53. Messrs. Young, Crooch, and Herz asked the staff do more work to look at both expected outcome and best estimate measurements. Mr. Herz stated that getting feedback from a working group would be useful for the Board in better understanding the distribution of outcomes and whether the distribution should be truncated or not.
54. Mr. Trott questioned why more work would need to be done if Messrs. Herz, Batavick, and Crooch and Mses. Seidman and Schipper supported the use of best estimate. Mr. Herz responded that he would favor more work to get a better understanding of how preparers would calculate the measurements.
55. Mr. Smith stated that he had not considered exploring expected outcome because he thought that a majority of the Board members had dismissed it as an approach because of the comments that had been received in comment letters and at the roundtable. He stated that he agreed with Mr. Batavick about how considering it now would cause a need for reexposure and would eliminate the possibility of reaching the target effective date. He stated that he had suggested that the Board further explore the implications

of best estimate because it is possible to come up with a number for which the entity has a fairly low probability of sustaining and that is bothersome to Messrs. Trott and Cassel. Ms. Seidman stated that she felt there was an offsetting anomaly of not reporting what the entity expects to realize when the range of outcomes is truncated.

56. Ms. Schipper stated that a staff member with relevant expertise had indicated to her that technically meritorious positions would have a distribution where the mass of valuation points is well above 50.1 percent, and that there is a low probability that many of the points would be below 50 percent of the value of the position as filed. Mr. Cassel stated that he could not draw the same conclusion from his conversations with various parties.
57. Mr. Smith stated that his understanding was that if you look at the population of filing matters that need to be considered, the vast majority of those are such that an entity will exceed the more-likely-than-not threshold and the distribution will be similar to the type that Ms. Schipper described. He stated that it was less frequent to have a scenario where the distribution would be wider, but that those are the scenarios that people are concerned about because they are probably high value scenarios.
58. Mr. Leisenring stated that he did not believe that best estimate is well-established in practice. When an entity is really looking for the mode of a distribution they should consider outliers; however, Mr. Leisenring believes the Board's objective is not to consider outliers.
59. Ms. Schipper noted that provisions of the amendment to IAS 37, *Provisions, Contingent Liabilities and Contingent Assets*, for which the Board issued an invitation to comment, solicits comments on measuring non-financial information using expectations on the dispersions of possible outcomes. Even though the scope does not include income taxes, the kind of analysis a person would have to go through (which includes subject matter expertise and solicitation of expected probabilities) is the same kind of analysis and thought process that would need to be done as part of this project.

60. Mr. Thomas summarized the Board's decisions for the Exposure Draft which are as follows:

- a. There will not be a definition of "uncertain tax positions"
- b. The document will broadly apply to all tax positions
- c. The staff will reconsider the title of the document
- d. No further guidance will be included on the uncertainty over new legislation or on tax positions not taken
- e. The final Interpretation will not proscribe a specific unit of account, but will indicate that the unit of account is a matter of facts and circumstances based on the manner in which an entity supports and documents its tax positions and at the level the entity expects to address the issue with the taxing authorities
- f. A benefit recognition model will be followed with a two-step approach where the first step is evaluation of the tax position against a recognition criterion and the second step is measurement
- g. A more-likely-than-not recognition-derecognition threshold will be used
- h. Entities will use the best estimate of all possible outcomes, which is similar to the statistical mode, to measure the benefit of the tax position.

61. Ms. Seidman, Mr. Crooch, and Mr. Batavick stated that no more work should be performed on either best estimate or expected outcome because they support the staff's recommendation of a best estimate measurement. Ms. Schipper requested that the staff perform more work and analysis on the subject because of the differing views that staff members had expressed about the dispersion of data points in the distribution. Mr. Herz stated he would prefer the staff investigate further the difference between a best estimate and probability-weighted average approach. Mr. Young stated that he preferred more work be done on expected outcome, but that if the

majority of the Board preferred some form of best estimate, that no more work needed to be done in that area. With expected outcome off the table, four board members supported using the best estimate of all possible outcomes (LFS, GJB, GMC, DMY), one supported using the best estimate of a truncated distribution (EWT), and two were undecided without further analysis (KAS, RHH).

**Follow-up Items:**

None.

**General Announcements:**

None.