

April 21, 2005

Letter of Comment No: 4  
File Reference: FSPFAS143A  
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Mr. Lawrence Smith  
Director of Technical Application and Implementation Activities  
Financial Accounting Standards Board  
401 Merritt 7  
P.O. Box 5116  
Norwalk, Connecticut 06856-5116

**RE: File Reference No. FSP FAS 143-a: Accounting for Electronic Equipment Waste Obligations**

Dear Mr. Smith:

PricewaterhouseCoopers LLP appreciates the opportunity to respond to the proposed Financial Accounting Standards Board (FASB) Staff Position identified above ("the FSP"). We continue to support the FASB's convergence efforts with the International Accounting Standards Board (IASB) and the International Financial Reporting Interpretations Committee (IFRIC). We appreciate the Board's willingness to consider this issue concurrently with the IFRIC, which recently issued IFRIC Draft Interpretation D10, *Liabilities arising from participating in a specific market – Waste Electric and Electronic Equipment*.

Our responses to the questions asked in the Notice to Recipients are as follows:

***Issue 1: Do you agree that guidance is necessary to address the accounting for electronic equipment waste obligations associated with historical waste held by commercial users and private households?***

PricewaterhouseCoopers is a proponent of principles-based standards with sufficient implementation guidance to promote reasonably consistent application when and where possible. In that regard, the basic premise of the FSP—that commercial users of electric and electronic equipment have an asset retirement obligation as a result of the passage of the EU Directive and corresponding local legislation—seems to state the obvious in the context of FASB Statement No. 143, *Accounting for Asset Retirement Obligations* (FAS 143). We do not favor a proliferation of individual standards addressing whether a retirement obligation of a particular nature is, or is not, within the scope of FAS 143. Accordingly, we believe the guidance with respect to FAS 143 is unnecessary. Yet, because of the peripheral issues that are also addressed in the IFRIC interpretation and in the FSP, we do not object to the FASB providing guidance on this topic.

However, we believe certain additional areas warrant consideration in this FSP, in order to avoid diversity in practice and to provide users with comprehensive guidance on the accounting implications of the WEEE Directive. Those areas are as follows:

1. The revenue recognition implications for producers of electronic equipment when the asset retirement obligation is transferred from the commercial user to the producer upon replacement of the equipment. Upon transfer of the asset retirement obligation by the commercial user, the producer of the replacement equipment needs to recognize the liability for the fair value of the disposal obligation. In some cases, the cost of assuming that liability may be included in the sales price that the producer of the replacement equipment will charge to the commercial user. In other cases, market conditions may be such that producers find it difficult to pass along the cost of this assumption and may, instead, be forced to accept a lower price for the replacement equipment. To avoid potential diversity in practice, we encourage the FASB Staff to provide guidance on (a) the allocation of consideration received between revenue and the disposal obligation and (b) whether the consideration received for the disposal obligation should be reported as a component of gross revenues (with a corresponding expense for the recognition of the disposal obligation) or as a net allocation of the consideration received. Those considerations could be addressed by references to existing authoritative literature, including EITF Issue No. 99-19, *Reporting Revenue Gross as a Principal versus Net as an Agent*, EITF Issue No. 00-21, *Revenue Arrangements with Multiple Deliverables*, or interpretive guidance issued by the SEC such as, Staff Accounting Bulletin No. 104, *Revenue Recognition*.
2. The accounting for new waste (i.e., the recycling or disposal obligations arising from equipment put on the market after August 13, 2005). In particular, the guidance should address whether the recycling or disposal obligation arises upon production of the equipment (i.e., when it is in process or completed as inventory) or upon sale of the equipment to a household user. The definition of a liability in FASB Concepts Statement No. 6, *Elements of Financial Statements*, provides useful guidance in this area.

***Issue 2: Do you believe that the liability for obligations associated with historical waste held by commercial users and private households within the EU-member countries will be of such significance to entities preparing financial statements in accordance with U.S. GAAP that authoritative guidance should be provided by the Board?***

We believe that the financing of electronic and electrical waste in accordance with the WEEE Directive will have a significant impact on producers of such equipment. Many of those producers are likely required to prepare financial information in accordance with U.S. GAAP. Therefore, we believe that guidance by the Board will be useful to these companies.

#### ***Other issues***

#### **Transitional provisions**

The FSP does not provide any specific transitional provisions. Absent specific transitional provisions, a company may apply an FSP prospectively to future transactions or may apply the provisions of Opinion 20 to prior transactions. Since local legislation may have been adopted in certain EU-Member States by the time this FSP is finalized, we encourage the FASB Staff to provide specific transitional provisions that address that issue.

Please refer to the attached FSP in Exhibit 1 to this letter, in track changes mode, for additional comments and edits.



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If you have any questions regarding our comments, please contact Pat Durbin at (973) 236-5152 or Ken Dakdduk at (973) 236-7239.

Sincerely,

PricewaterhouseCoopers LLP

## PROPOSED FASB STAFF POSITION

### No. FAS 143-a

**Title:** Accounting for Electronic Equipment Waste Obligations

**Comment Deadline:** April 21, 2005

1. The Board directed the FASB staff to issue this FASB Staff Position (FSP) to address the accounting for obligations associated with Directive 2002/96/EC on Waste Electrical and Electronic Equipment (the "Directive") ~~issued~~ adopted by the European Union.<sup>1</sup>

#### Background

2. The Directive was ~~enacted~~ adopted on February 13, 2003 and directs EU-member countries to adopt legislation to regulate the collection, treatment, recovery, and environmentally sound disposal of electrical and electronic waste equipment. The actual legislation adopted by individual EU-member countries can have different requirements. An enterprise should apply the guidance herein, adjusted as needed for the specific requirements of the applicable EU-member country.

3. The Directive distinguishes between "new" and "historical" waste. New waste relates to products put on the market after August 13, 2005. All products put on the market<sup>2</sup> ~~±~~ on or before this date are deemed to be historical waste equipment for the purposes of the Directive. For the financing of historical waste, the Directive also distinguishes between historical waste from private households and historical waste from "users other than private households" (that is, commercial users).

4. Questions have arisen as to whether commercial users of electronic equipment or producers of electronic equipment sold to both commercial users and private households should recognize the effects of the Directive with respect to historical waste under U.S. GAAP, and if so, when and how to account for those effects. This FSP does not address the accounting for new waste.

#### FASB Staff Position

##### Historical Waste Equipment Held by Commercial Users

(Comment: Although our suggested footnote 1 alleviates some of our concerns, we recommend that the language used in paragraph 5a. below follow the language contained in revised Article 9 of the Directive. We further recommend clarifying the source of the statement in paragraph 5.a. (2) below, since that statement does not appear to be covered by revised article 9 of the Directive)

5. The Directive contains the following requirements with respect to historical waste held by commercial users: (Comment: We recommend defining the term commercial user based on the

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<sup>1</sup> This FSP makes reference to various provisions of the Directive and, in many cases, paraphrases those provisions. While those statements reflect the best efforts of the FASB staff to describe relevant aspects of the Directive, nothing in this FSP shall be considered a definitive interpretation of any provision of the Directive for any purpose.

<sup>2</sup> The term *put on the market* is not defined in the Directive. It is the FASB staff's understanding that the term has been interpreted in practice to mean "sold" since it is expected that the cost ~~incurred~~ of the waste management obligation will be driven by market share based on sales.

information provided in the Directive, i.e. users other than private households, or alternatively, using the specific language from the directive to avoid any misunderstanding.)

a. When historical waste equipment is replaced after August 13, 2005, the commercial user may settle the waste management obligation for that equipment by -(1) transferring the obligation, at the date the equipment is replaced, to the producer of the *replacement* equipment (Comment: It is unclear to us why the word “replacement” is italicized here. We agree that whether equipment is “replacement” equipment is important in applying the guidance and, therefore, believe that it would be beneficial to provide a definition of replacement product, or cross-reference to the applicable legislation, if a statutory definition exists) or (2) disposing of the equipment in a manner permitted by the EU-member country. EU-member countries may provide that commercial users remain partly or totally responsible for the cost of disposal of historical waste equipment even if the equipment is replaced.

b. When historical waste equipment is not replaced, the waste management obligation remains with the commercial user.

6. Under the Directive, the waste management obligation remains with the commercial user until the historical waste equipment is replaced, at which time the waste management obligation for that equipment may be transferred to the producer of the replacement equipment depending on the law adopted by each the applicable EU-member country. If the commercial user does not replace the equipment, the obligation remains with that user until it disposes of the equipment.<sup>23</sup> The Directive effectively obligates a commercial user to incur costs associated with the retirement of a specified asset that qualifies as historical waste equipment. The commercial user should apply the provisions of FASB Statement No. 143, *Accounting for Asset Retirement Obligations*, to the obligation associated with historical waste since this type of obligation is an asset retirement obligation. The accounting for the initial recognition and measurement of the liability and asset retirement cost should be consistent with paragraphs 3–12 in Statement 143. That is, the commercial user should recognize the fair value of the liability for the obligation when the legislation is enacted by its EU-member country or when the equipment is acquired if the legislation is already enacted. The fair value of a liability for an asset retirement obligation is the amount at which that liability could be settled in a current transaction between willing parties. The ability or intent of the commercial user to replace the asset and transfer the obligation does not relieve the user of its present duty or responsibility to settle the obligation. The replacement of the asset may, depending upon EU-member country law, transfer the obligation to the replacement producer, and, if so, that transfer would affect the purchase price of the replacement asset.

7. Upon initial recognition of a liability, an entity shall capitalize an asset retirement cost by increasing the carrying amount of the related asset by the same amount as the liability. The accounting subsequent to the initial recognition of the asset and liability should be consistent with the guidance in paragraphs 13–15 in Statement 143.<sup>43</sup>

8. If the asset is subsequently replaced, with the obligation being transferred to the producer of the replacement equipment, the commercial user should determine the portion of the total amount

<sup>23</sup> The Directive provides each EU-member country the option to obligate commercial users to pay part or all of the costs associated with the historical waste even if the equipment is replaced. In this situation, the obligation would remain (partly or wholly) with the commercial user until the user disposes of the equipment.

<sup>34</sup> Paragraph 13 of Statement 143 requires an entity in periods subsequent to initial measurement to recognize period-to-period changes in the liability for an asset retirement obligation resulting from (a) the passage of time and (b) revisions to either the timing or the amount of the original estimate of undiscounted cash flows. An entity shall measure and incorporate changes due to the passage of time into the carrying amount of the liability before measuring changes resulting from a revision to either ~~or both~~ the timing ~~and or~~ the amount of estimated cash flows. Paragraphs 14 and 15 of Statement 143 discuss the measurement of changes resulting from the passage of time and revisions to cash flow estimates.

paid to the producer that relates to the replacement equipment (the new asset) and the portion that relates to the transfer of the asset retirement obligation.<sup>54</sup> That determination should be based on the amount at which the asset without the assumption of the retirement obligation could be exchanged in a current transaction between knowledgeable, unrelated willing parties.<sup>55</sup> That amount should be used in determining the new asset's cost basis. The commercial user would derecognize the liability from its balance sheet and recognize a gain or loss based on the difference between the carrying amount of the liability at the date of the sale and the portion of the sales price that relates to the obligation. (Comment: This language, from the "solution" in Example 1, more clearly articulates the relevant guidance.) , and the amount that relates to the transfer of the obligation should be used to determine the gain or loss as a result of the transfer. The producer of the replacement equipment would recognize a liability for the fair value of the obligation upon the transfer of the obligation from the commercial user. [Comment: This sentence is the only guidance for producers of waste held by commercial users. That obligation, once assumed by the producer, would not be within the scope of Statement 143. We recommend making that clear.]

**Historical Waste Held by Private Households [The guidance in this section, while related to the Directive, does not pertain to an asset retirement obligation as contemplated by FAS 143].**

9. The Directive provides that the financing of historical waste held by private households is to be borne collectively by producers that are selling in the market during each measurement period (to be defined by each EU-member country). The volume of equipment that qualifies as historical waste that those producers have sold in the market prior to the measurement period is not considered. Producers will be required to contribute proportionately based on their participation in the market (for example, in proportion to their respective shares of the market by type of equipment). However, the exact method to be used to compute the respective proportions will be determined by each EU-member country.

10. If, for example, the method is based on each company's respective share of the market by type of equipment during the measurement period, a liability for the obligation, with an offsetting amount to expense, shall be recognized over the measurement period for the appropriate portion of the cost based on the estimated total allocable costs of the waste management program and an entity's estimated market share. The liability should be adjusted as actual market share and program cost information is received. The obligation is triggered by participation in the market during the measurement period and therefore should not be recognized prior to the beginning of that period.

11. The recognition required by paragraph 10 of this FSP is consistent with paragraph 36 of FASB Concepts Statement No. 6, *Elements of Financial Statements*, which states, in part:

A liability has three essential characteristics: (a) it embodies a present duty or responsibility to one or more other entities that entails settlement by probable future transfer or use of assets at a specified or determinable date, on occurrence of a specified event, or on demand, (b) the duty or responsibility obligates a particular entity, leaving it little or no discretion to

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<sup>45</sup> The price paid by the commercial user would not include any costs associated with the transfer of the obligation in situations where the law in the EU-member country obligates commercial users to pay all of the costs associated with the historical waste even if the equipment is replaced. In these situations, the commercial user would not derecognize the liability from its balance sheet upon replacement but rather when the obligation is ultimately settled.

<sup>56</sup> The FASB staff expects information to be available from transactions between commercial users and producers that only involve assets that qualify as new waste such that the transaction would not involve the assumption of the asset retirement obligation by the producer.

avoid the future sacrifice, and (c) the transaction or other event obligating the entity has already happened.

12. The entity has a present duty or responsibility since it is required by current laws, regulations, or contracts to finance waste equipment if it participates in (puts equipment on) the market during the measurement period. Since each ~~company's producer's~~ proportion of costs is based on its participation in the market during the measurement period, the entity cannot avoid the future payment once it has participated in the market during the measurement period. Therefore, the obligating event occurs when the company participates in the market during the measurement period. However, the company can avoid incurring obligations in the future the future payment by changing its operations (for example, exiting certain product lines or operating in a different marketplace). ~~However, the entity cannot avoid the future payment once it has participated in the market during the measurement period. Therefore, the obligating event occurs when the company participates in the market during the measurement period.~~

### **Effective Date**

13. The guidance in this FSP shall be applied in the first reporting period ending after [the date the FSP is finalized]. Earlier application is encouraged in periods for which financial statements have not yet been issued when the FSP is finalized.

### **Examples**

#### **Commercial User**

An entity (a commercial user) is currently using electronic equipment which must be disposed of in accordance with the requirements of the Directive. The EU-member country has not yet enacted the legislation. The entity has the ability either to replace the equipment or to dispose of the equipment without replacing it. In the EU-member country in which the entity operates, the producer of the replacement equipment will be wholly responsible for disposal costs if and when the equipment is replaced.

Upon the enactment of the legislation, the entity should recognize a liability for the fair value of the asset retirement obligation. The waste management obligation remains with the commercial user until the historical waste equipment is replaced or is disposed of by the commercial user itself. Assuming the equipment is replaced, the entity would determine the portion of the purchase price that relates to the cost of the replacement asset and the portion that relates to the assumption of the obligation by the producer. The entity would recognize a gain or loss based on the difference between the carrying amount of the liability at the date of the sale and the portion of the sales price that relates to the obligation. The producer would recognize a liability for the fair value of the obligation upon transfer of the obligation from the commercial user. Assuming the equipment is disposed of by the entity rather than replaced, the entity would recognize a gain or loss based on the difference between the carrying amount of the liability at the date of the disposal and the actual cost of disposal.

#### **Private Household**

An entity is a producer of electronic equipment that is covered by the Directive. The entity has produced and sold this type of electronic equipment for several years. In the EU-member country in which the entity operates, the Directive is incorporated into local legislation enacted by the EU-member country becomes effective in 2005 and requires producers to be responsible for costs associated with the disposal of electronic equipment from private households based on its participation in the market, measured as market share, during the measurement period. The EU-member country has defined the measurement period as

calendar year 2005. The entity achieves a 4 percent market share in 2004 and expects to achieve a 5 percent market share in 2005.

The entity should not recognize a liability in 2004 for the costs associated with the disposal of historical waste held by private households. The obligation is triggered by participation in the market during 2005 (the measurement period). A liability for the obligation, with an offsetting amount to expense, should be recognized over the year for the appropriate portion of the annual cost based on the estimated percent market share. The liability should be adjusted as actual market share information is received. The entity would recognize a liability relating to costs incurred during 2006 as the entity participates in the market in 2006.