Disclosure Equitable, Constructive and Legal Liabilities: A Case Study in the Brazilian Market

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Abstract

This article investigates the use of liability disclosure concepts, according to the standards introduced by the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (UN-ISAR) in 1997. We analyzed the financial statements of the companies listed in BOVESPA (São Paulo Stock Exchange) and classified as ‘Level 2’ and ‘New Market’ for 2001 to 2005. By examining the content of these financial statements, we determined the level of adherence of these companies to international liability disclosure standards, i.e., the classification of liabilities into legal, constructive and equitable obligations. We found that Brazilian companies still disclose liabilities in the traditional form, only considering legal obligations, not constructive and equitable ones. This is true even when these companies published statements in other countries.

Introduction

The Financial Accounting Standards Board (FASB) (2001, p. 4) defines liabilities as follows: Probable future sacrifices of economic benefits, resulting from the present obligations of a determined entity, in transferring or providing services to other entities in the future, in function of past transactions or events.

However, in recent years, due to the complexity of the financial transactions involving these obligations, a need has arisen for a more detailed conception for recognizing, measuring and disclosing liabilities.

FASB (2004) defined obligation as:

Economic obligations of an enterprise that are recognized and measured in conformity with generally acceptable accounting principles. Liabilities also include certain deferred credits that are not obligations but that are recognized and measured in conformity with generally accepted accounting principles.

As a result, the FASB is giving consideration in the liabilities and equity project to amending the definitions of liabilities and equity. Under the accounting equation, assets are equal to the sum of liabilities and equity, or

\[ \text{Assets} = \text{Liabilities} + \text{Equity} \]  (1)

Equity is defined as the residual or default element; that is, as:

\[ \text{Assets} – \text{Liabilities} = \text{Equity} \]  (2)

Alternatively, liabilities might instead be defined as the residual or default element:

\[ \text{Assets} – \text{Equity} = \text{Liabilities} \]  (3)

Probably the most accepted accounting definition of liability is the one used by the International Accounting Standards Board (IASB). The following is a quotation from IFRS Framework:
A liability is a present obligation of the enterprise arising from past events, the settlement of which is expected to result in an outflow from the enterprise of resources embodying economic benefits. [F.49]

Regulations as to the recognition of liabilities are different all over the world, but are roughly similar to those of the IASB.

Examples of types of liabilities include: money owing on a loan, money owing on a mortgage, or an IOU.

In this context, international regulatory organs on accounting rules and standards, such as the Public Sector Committee (PSC) and the International Federation of Accountants (IFAC), published a study in 1995 entitled *Accounting for and Reporting Liabilities*, in which the preliminary focus was verification of the concepts and practices for recognition and disclosure of the types of obligations in the financial statements prepared by national governments and nonprofit entities. This study also made a comparison of the various ways to define liabilities used by the accounting standards organs of diverse countries (Australia, Canada, Italy, Holland, United Kingdom and United States), resulting in identifying a need for a better way of recognizing, measuring and disclosing liabilities.

Besides this, the study highlights the existence of a debate over exactly when a legal obligation causes a liability. The idea of obligations was extended beyond just legal obligations to equitable and constructive obligations, which could also be considered as liabilities from a broader perspective. These responsibilities can originate from the normal course of business or prioritize equity (or justice). For example, a business may regularly replace or repair defective products even after the warranty period.

In 1997, the United Nations, through the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (UN-ISAR), also published a report stressing the disclosure of types of liabilities in the environmental reports published by companies, in which it exposed concepts on the recognition of environmental liabilities. According to the UN-ISAR (1997), the obligations are classified as:

- **Legal**: those arising by force of legal instruments (legislation, penalties imposed by law, etc.);
- **Constructive**: those the company spontaneously proposes to honor due to ethical and moral factors, independent of the law.
- **Equitable**: the obligations the company finds itself obliged to honor due to ethical and moral factors, independent of the law.

Similarly, the FASB (in Ribeiro and Lisboa, 2000, p.2) stress that the term “obligations” is not restricted to “legal obligations”, but instead covers the social side and can be determined by contracts or by moral and ethical responsibilities.

Reflecting on the panorama of the evolution of accounting theory, Hendriksen (in Iudícibus, 2000) supplies a focus, determining that in the total liabilities, even if there is no legal obligation, estimates must also be included of constructive and equitable obligations.

Based on the evolution of the concept of liabilities in accounting, some multinational companies have begun to publish their financial statements mentioning legal, equitable and constructive obligations. As an example, we can cite petrochemical companies such as Cooper Energy, Lakes Oil N.L and BP Australian Group Pty Ltd, which because they conduct
activities with high environmental risk (polluting potential) face greater legal and social demands to disclose their liabilities in more detail.

Since accounting is a social science, it evolves along with society, and has the objective, according to Iudícibus (2000, p.19), “(...) of furnishing to users, regardless of their nature, a set of basic information that presumably should serve all equally well (...”)”. The search for better disclosure of liabilities is one of the factors showing this evolution.

Since the treatment of obligations is fundamental, both to report a company’s financial position and to signal new investments, the present study intends to answer the following question: According to international standards, what is the level of disclosure of legal, equitable and constructive obligations in the financial statements published by the companies listed in BOVESPA (Sao Paulo Stock Exchange) and classified as ‘Level 2’ and ‘New Market’ for 2001 to 2005?

This annual award seeks to recognize the Brazilian companies publishing the best accounting statements, considering among other criteria quality and level of transparency of accounting information and also adherence to accounting principles.

By analyzing this sample, the study intends to help spread knowledge of a better way to report liabilities in the financial statements of Brazilian companies, i.e., disclosure that also includes classification of liabilities into constructive and equitable obligations rather than just legal ones.

Review of the Literature

Concept and Types of Liabilities

The SEC (Security and Exchange Commission of United States) considers international disclosure standards necessary and useful to american investors when it writes: “Our decision to adopt the International Disclosure Standards was based on our conclusion that the standards were of high quality and that their adoption would provide information comparable to the amount and quality of information that U.S. investors receive today”.

In accounting theory, according to Iudícibus (2000), the concept of obligations has various currents of thought, ranging from strict to broad. The most restricted view argues that only effective debts legally owed (legal obligations) should be included as liabilities. This is the view defended, for example, by the Committee of the American Accounting Association (AAA). In contrast, there are broader visions, such as that of the FASB, which supports recognition and disclosure of legal obligations along with constructive and equitable ones.

The idea of an equitable obligation is in fact nothing new. As far back as 1929, Canning (in Iudícibus, 2000, p.146) explained what should be included in the liabilities:

An obligation is a service, with a monetary value, that an owner is obliged to provide by a legal or equitable rule to a second person or group of people, as long as it is not an unconditional compensation for specific services of equal or greater monetary value owed by this second person to the owner.

Hendriksen (in Iudícibus, 2000, p.146) goes further, admitting that amounts to be paid in the future for damages, or for services rendered later, should be included in the liabilities, even if there is no legal obligation to make such payments.

For the FASB (in Hendriksen and Van Breda, 1999, p. 286), there are three essential characteristics of liabilities on the balance sheet:
A present obligation or responsibility to one or more entities calling for probable future transfer or by the use of assets on a specified or determinable date, in the occurrence of a predetermined event, or on demand.

An obligation or responsibility that binds a given entity, giving it little or no freedom to avoid a future sacrifice.

A transaction or other event that obliges the entity that has already occurred.

For the FASB, this second characteristic is not restricted only to the obligations a company is legally subject to pay, but also includes equitable and constructive obligations, whence the FASB starts to delineate new classifications, or concepts, for liabilities.

TABLE 1. Liabilities Definitions of The FASB, IASB, and Certain of the IASB’S National Standard Setter Partners

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<tr>
<th>STANDARD SETTER</th>
<th>DEFINITION</th>
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<td>FASB</td>
<td>Liabilities are probable future sacrifices of economic benefits arising from present obligations of a particular entity to transfer assets or provide services to other entities in the future as a result of past transactions or events. [Statement of Financial Accounting Concepts No. 6, Elements of Financial Statements; paragraph 35; footnote references omitted.]</td>
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<td>IASB</td>
<td>A liability is a present obligation of the enterprise arising from past events, the settlement of which is expected to result in an outflow from the enterprise of resources embodying economic benefits. [Framework for the Preparation and Presentation of Financial Statements, paragraph 49(b)]</td>
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<tr>
<td>Canada</td>
<td>Liabilities are obligations of an entity arising from past transactions or events, the settlement of which may result in the transfer or use of assets, provision of services or other yielding of economic benefits in the future. [CICA Handbook, Sec. 1000.32]</td>
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<tr>
<td>Australia</td>
<td>“Liabilities” are the future sacrifices of economic benefits that the entity is presently obliged to make to other entities as a result of past transactions or other past events. [Statement of Accounting Concepts 4 (revised), paragraph 48]</td>
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<td>New Zealand</td>
<td>Liabilities are the future sacrifices of service potential or of future economic benefits that the entity is presently obliged to make to other entities as a result of past transactions or other past events. [Statement of Concepts for General Purpose Financial Reporting, paragraph 7.10]</td>
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<tr>
<td>United Kingdom</td>
<td>Liabilities are obligations of an entity to transfer economic benefits as a result of past transactions or events. [Statement of Principles for Financial Reporting, paragraph 4.23]</td>
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Kam (1990) agrees with the FASB regarding recognizing and disclosing constructive and equitable obligations, not just legal ones. According to him:

An enterprise may have an equitable obligation to complete and deliver a product to a customer that has no other source of supply even though its failure to deliver would legally require only a return of the customer’s deposit… an enterprise may create a constructive obligation to employees for vacation pay or year-end bond by paying them every even though it is not contractually bound to do so… (KAM, 1990, p. 122).
This more inclusive approach to classifying obligations is shared with other authors, such as Hendriksen and Van Breda (1999, p.287), who in exemplifying the types of obligations include equitable and constructive ones as follows:

(...) equitable obligations result from ethical or moral limitations instead of legal restrictions. For example, a company may feel ethically obligated to satisfactorily finish the repairs on a customer’s car, even though the legal obligation only covers refunding the customer’s money. 

(...) constructive obligations result from customs, for example, if a company typically gives vacation to its employees once a year, it can be inferred that this practice represents an obligation of the company.

International entities for accounting research and standards cover this new classification of liabilities. For example, the Canadian Institute of Chartered Accountants (CICA) (2003, p. i) makes the following observations:

- Liabilities are present obligations arising from past transactions or events, the settlement of which is expected to result in the future sacrifice of economic benefits. Liabilities include those arising from contractual, legislative, constructive and equitable obligations.
- For liabilities that cannot be recognized because a reasonable estimate of the amount involved cannot be made, information about the nature and possible amounts should be disclosed in the notes.
- Where there is measurement uncertainty related to an amount recognized, the nature and extent of that uncertainty should be disclosed except when disclosure of the amount would have an adverse effect on the entity.

According to another accounting standards organ, the Australian Accounting Standards Board (AASB, 2001), an example of an equitable obligation would be where an entity makes a public announcement that it will give financial help to the victims of a recent natural disaster, because of customs and moral considerations, even though there is no legal obligation to do this.

The main difference between legal and constructive obligations according to the International Accounting Standards Board (IASB) can be explained by considering the consequences of inadequate behavior by the company. A legal obligation requires suitable behavior or results in a fine that should be at least economically equivalent to the failure to do what is adequate. Constructive obligations are always based on an expectation of continuing past behavior, or of future behavior where an expectation of this has been created.

FASB (2004) alert:

The line between equitable or constructive obligations and obligations that are enforceable in courts of law is not always clear, and the line between equitable or constructive obligations and no obligations may often be more troublesome because to determine whether an entity is actually bound by an obligation to a third party in the absence of legal enforceability is often extremely difficult.

The IASB exemplifies, in International Accounting Standard (IAS 19), also regarding constructive obligations, that a company may have no obligation to pay any bonus to its employees (profit sharing, for instance). Nevertheless, in some cases the company has this practice. This being so, in such cases it will have a constructive obligation, since although there is no legal obligation, it will pay the bonus due to custom.
Recognition of Liabilities

The question of when to recognize a liability is another controversial point, because there are some that are not easy to recognize or measure. However, even if this is not possible, the fact of recognition does not change the nature of this element, since it continues to be a liability, albeit not recognized.

The Canadian Institute of Chartered Accountants (CICA, 2003) states that liabilities should be recognized in the financial statements when:

a) there is an appropriate basis for measurement;

b) a reasonable estimate can be made of the amount involved.

As a rule, equitable obligations (environmental, for example) should be subject to a probability of demandability that can be reliably measured (or reasonably calculated). The words “probability” and “reliably” (or “reasonably calculated”) are important in interpreting the main accounting standards.

In IAS F91, the IASB (in Schaltegger and Burrit, 2000, p.184), this is expressed:

A liability is recognized in the balance sheet when is probable that an outflow of resources embodying economic benefits will result from the settlement of present obligation and the amount at which will take place can be measured reliably.

Reliability is a very important characteristic in decisions, since it ensures that the information is reasonably free of errors (HENDRIKSEN and VAN BREDA, 1999).

So, there needs to be some reliability, even if not certainty, to the recognition and measurement of a liability. But it is also necessary for there to be a balance with relevance, which, according to the FASB, is the capacity that the information would have to make a difference in a decision, because then this information will be useful to the various users of information (which is the objective of accounting).

Disclosure

Regarding disclosure, Schaltegger and Burrit (2000, p.189) state that:

Disclosure is the process in incorporating elements of financial accounting (assets, liabilities, equity, expenses and income) into the balance sheet, the income statement or separate sections and papers of disclosure such as note to the accounts.

International standards organizations have devoted much time and effort to discussing the best ways to disclose liabilities. For example, the IASB, in IAS 10 (in Schaltegger and Burrit (2000, p.190), requires that events of loss and contingencies be disclosed, and that furthermore, unrecognized obligations that are pertinent to a company’s financial position should be reported in notes, environmental reports (when related to environmental liabilities) or the annual report.

For the CICA (2003), an obligation can be defined as a responsibility, but may not be recognized in the financial statements because it is impossible to make a reasonable estimate of the amount involved. The information on the nature and worth of obligations that cannot be recognized should be reported in notes by means of a reasonable estimate of the amounts involved. The CICA and the IASB agree here in determining that the information should be reported in notes to the financial statements.
Also on the matter of disclosure, the AASB (2001, p. 6) specifies a minimum disclosure required in relation to provisions, contingent obligations and contingent resources. The specific disclosure will include information regarding:

- the nature of the provision or contingency;
- changes in recognized amounts;

and regarding contingencies:

- indications of the uncertainty relating to the amount or timing of the sacrifice or the inflow of future economic benefits;
- an estimate of the amount of the financial effect, if practicable;
- the existence and amount of any potential recoveries.

In Brazil, authors have an approach to disclosure of liabilities that is restricted mainly to the environmental area, specifically regarding equitable and constructive obligations. Ribeiro (2000, p.3) relates that environmental liabilities should be recognized, in the period in which they occur, in notes to the financial statements. She goes on to state that:

> The notes to the financial statements should be used to report the contingencies and events occurring after the balance sheet closing date, as well as expected losses whose amounts may be greater than provisioned.

Hendriksen and Van Breda (1999, p.410) affirm that “(...) simultaneous to the growing awareness of the need to recognize more obligations on balance sheets, there has been an explosion of different types of liabilities.”

Faced with what has been described in the previous citations, we can observe that the complex circumstances of companies’ financial transactions has been forcing a change of attitude among regulatory organs and authors on accounting theory regarding the classification, recognition and disclosure of liabilities.

Observing this phenomenon, we propose to verify the level of disclosure of legal, equitable and constructive obligations (according to international standards) in the financial statements of the of the companies listed in BOVESPA and classified as ‘Level 2’ and ‘New Market’ for 2001 to 2005.

Corporate governance is thought as delineating rights and responsibilities of each group of stakeholders in the company. Transparency is one major indicator of the standard of corporate governance in an economy. (Ho, Wong, 2001).

Globalization process reached Brazilian companies and their search for corporate governance practices. São Paulo’s Stock Exchange (BOVESPA) is the largest stock exchange in Brazil with 501 listed companies at the end of 2005. It has three segments of listing by corporate governance known as Level 1, Level 2 and New Market.

Brazilian companies were selected from BOVESPA Internet site (www.bovespa.com.br).

There are thirty six Brazilian companies listed in BOVESPA as ‘Level 1’, thirteen classified as ‘Level 2’ and thirty eight others classified as ‘New Market’.

According BOVESPA (2005):
Nível 1 - largely undertake to improve methods of disclosure to the market and to disperse their shares among the largest number of shareholders possible. Thus, the principal practices required of a Companhia Nível 1 are:

- Maintenance of a free-float of at least 25% of the capital;
- Public offerings have to use mechanisms to favor capital dispersion;
- Improvement in quarterly reports, including the disclosure of consolidated financial statements and special audit revision;
- Monthly disclosure of trades involving equities issued by the company on the part of the controlling shareholders or the management;
- Disclosure of an annual calendar of corporate events.

Nível 2 - to be classified as a Companhia Nível 2, in addition to the obligations of Nível 1, the company and its controlling shareholders must adopt and observe a much broader range of corporate governance practices and minority shareholder rights. In brief, the criteria for listing as a Companhia Nível 2 are:

- A single one-year mandate for the entire Board of Directors, which must have five members at least;
- Disclosure of annual balance sheet according to standards of the US GAAP or IFRS;
- In case majority shareholders sell their stake, same conditions granted to them must be extended to common shareholders, while preferred shareholders must get, at least, 70% of the value/conditions (tag along);
- Voting rights granted to preferred shares in circumstances such as incorporation, spin-off and merger and approval of contracts between the company and other firms of the same holding group, when deliberated at general meeting;
- Obligation to hold a tender offer by the economic value criteria, in case of delisting or deregistration process;
- Admission to the Market Arbitration Panel for resolution of corporate disputes.

New Market (Novo Mercado) - the main innovation of New Market (Novo Mercado) concerns the capital stock, which must be solely represented by common shares. In brief, publicly-listed companies on the Novo Mercado have the following additional obligations:

- Public share offerings have to use mechanisms to favor capital dispersion;
- Maintenance of a minimum free float equivalent to 25% of the capital;
- Same conditions provided to majority shareholders in the transfer of the controlling stake will have to be extended to all shareholders (Tag Along);
- Establishment of a single one year mandate for the entire Board of Directors, which must have five members at least;
- Disclosure of annual balance sheet, according to standards of the US GAAP or IFRS;
- Improvements in quarterly reports, such as the requirement of consolidated financial statements and special audit revision;
- Obligation to hold a tender offer by the economic value criteria, in case of delisting or deregistration process;
- Compliance with disclosure rules in trades involving securities issued by the company in the name of controlling shareholders or management.

Hypothesis of the Work

In Brazil, studies and research available classifying obligations as legal, equitable and constructive focus basically on the environmental area, and the Brazilian bibliography is still scanty even in this respect. In contrast, the evolution of disclosure of liabilities in countries like the United Kingdom, Canada, the United States and Australia, where the subject is still controversial, has been widely discussed by their regulatory and accounting research organs. Based on this, we pose the following null hypothesis:
**H₀**: Brazilian companies still disclose liabilities in the traditional form, i.e., only considering those referring to legal obligations and not including equitable and constructive obligations.

**Methodology For Research, Selection And Treatment Of The Data**

In conducting this study, we used the technique of content analysis, which is defined by Bardin (1997, p.42) as:

A set of analytical techniques seeking to obtain, by means of systematic and objective procedures, to describe the content of messages, using quantitative or non-quantitative indicators to permit inferring awareness of the conditions of production/reception (inferred variables) of messages.

The general objective of this work is to verify, *according to international standards, the level of disclosing legal, equitable and constructive obligations in the liabilities of the companies listed in BOVESPA and classified as ‘Level 2’ and ‘New Market’ for 2001 to 2005*, using content analysis of their respective financial statements.

We obtained the information on these companies from their sites and analyzed the text (sentences) of the published accounting reports, identifying the characteristics of obligations, i.e., observing the concepts of legal, equitable and constructive obligations. By means of these financial statements and accompanying reports, we sought to identify all references to liabilities, which we subsequently classified considering the following categories defined for analysis of the data:

- **Declarative Information** – when the information was presented in qualitative form and expressed in purely descriptive terms.
- **Quantitative Non-monetary Information** – when the information was presented in quantitative form and expressed in numbers of a non-financial nature.
- **Quantitative Monetary Information** – when the information was presented in quantitative form and expressed in numbers of a financial nature.

We limited the study to the notes to the financial statements and annual reports, in which the concentration of information was perceptively significant.

From analysis of the sentences, we prepared tables and graphs to demonstrate the disclosure of obligations.
## Table 2. Disclosure by Type of Obligation, Type of Report and Type of Information

Companies listed in BOVESPA and classified as ‘Level 2’ and ‘New Market’ for 2001 to 2005

(in number of sentences)

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<td>8970</td>
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</tr>
</tbody>
</table>

**Type D** - Declarative Information - when the information was presented in qualitative form and expressed in purely descriptive terms

**Type Q** - Quantitative Non-monetary Information - when the information was presented in a quantitative form and expressed in numbers of a non-financial nature.

**Type M** - Quantitative Monetary Information - when the information was presented in quantitative form and expressed in numbers of a financial nature.

(* ) - Disclosure of legal, fair and constructive obligations.
Table 2 shows the content of the annual reports of management and the notes to the financial statements of the companies. The data disclosed were grouped according to the nature of the liabilities, i.e., legal, equitable and constructive obligations.

We classified the data by inference of the type of liability in each sentence found, since none of these companies made specific mention of classifying obligations as legal, equitable and constructive. Hence, none of these firms can be said to be in conformity with international liability disclosure standards.

Subsequently, the sentences found were classified according to the information categories (Declarative, Quantitative Non-monetary, Quantitative Monetary), and Graph 1 was prepared based on Table 2.

Graph 1 shows the preponderance of Declarative information, which leads to the supposition of a difficulty of measuring obligations classified as equitable and constructive.

By analyzing Table 1 and Graph 1 together, it can be seen that the greatest concentration of information was found in the notes, and that legal obligations were preponderantly disclosed, such as under Loans and financing contracted. There is also disclosure of obligations that, by their nature, arise from customs, such as under Sponsored complementary pension plan. Equitable obligations, which in the case under analysis refer to environmental liabilities, were sparse in comparison with the total of other obligations.

We then prepared Table 3 to show the disclosure pattern for each company analyzed and the distribution of obligations by types.

According to Table 3 and Graph 2, the majority of companies disclosed, as seen previously, only legal obligations in their reports and notes.
Table 3. Disclosure by Type of Obligation and Company
(in number of sentences) BOVESPA

<table>
<thead>
<tr>
<th>Type of obligation, type of report and type of information (in number of sentences)</th>
<th>2001 Level 1</th>
<th>2002 Level 2</th>
<th>2003 Level 1</th>
<th>2004 Level 2</th>
<th>2005 Level 1</th>
<th>Total sentences from BOVESPA</th>
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<tr>
<td>Legal Obligations</td>
<td></td>
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<tr>
<td>Loans and financing contracted</td>
<td>100</td>
<td>125</td>
<td>40</td>
<td>220</td>
<td>165</td>
<td>145</td>
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<tr>
<td>Insurance</td>
<td>45</td>
<td>0</td>
<td>13</td>
<td>11</td>
<td>2</td>
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<td>Contracts with third parties</td>
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<td>0</td>
<td>2</td>
<td>1</td>
<td>2</td>
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<td>Tax obligations</td>
<td>79</td>
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<td>5</td>
<td>26</td>
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<td>Labor obligations</td>
<td>15</td>
<td>1</td>
<td>6</td>
<td>0</td>
<td>6</td>
<td>4</td>
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<tr>
<td>Environmental obligations</td>
<td>20</td>
<td>0</td>
<td>2</td>
<td>7</td>
<td>0</td>
<td>2</td>
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<tr>
<td>Legal provisions and contingencies</td>
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<td>0</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>1</td>
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<td>Constructive Obligations</td>
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<tr>
<td>Sponsored complementary pension plan</td>
<td>14</td>
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<td>7</td>
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<td>6</td>
<td>21</td>
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<td>Profit sharing</td>
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<td>2</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>6</td>
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<tr>
<td>Provision for product warranty claims</td>
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<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Provision for product improvement</td>
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<td>0</td>
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<tr>
<td>Equitable Obligations</td>
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<td></td>
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<td>Environmental and social responsibility and commitments</td>
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<td>0</td>
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<td>Total sentences analyzed</td>
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</tbody>
</table>

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( * ) - Disclosure of legal, fair and constructive obligations.

It was also possible to discern that the companies that in some form disclosed obligations that can be classified as “equitable”, in this case referring to Social and Environmental Responsibility, are those that have high polluting potential, such as pulp company and mining steel company listed in ‘Level 1’.

**Conclusion**

The information contained in the annual reports and financial statements of the companies in the sample studied leads to the confirmation of the study’s hypothesis that Brazilian companies still disclose liabilities in the traditional way, i.e., mainly considering those referring to legal obligations. This corroborates the opinion of Hendriksen and Van Breda (1999, p.287) that “(...) the strictest position has been that only obligations or debts of a legal character should be included as accounting liabilities,” since according to these authors, the broader approach to concepts of liabilities can create difficulties for accountants as to the moment of their recognition. Equitable and constructive obligations are derived from social or moral sanctions or customs. This makes it hard to find a reliable base to measure such obligations.

Kam (1990) also considers that the classification of obligations into equitable and constructive ones is inconsistent in practice, since social and moral responsibilities are difficult to classify. This also occurs for companies that operate internationally, which forces accountants to make moral judgments. Exactly because of the lack of a clear legal basis for recognition of constructive and equitable obligations, such classification can cause a company to assume a future liability that it might otherwise not have had to do.

Companies that offer bonuses to employees at career end (considered a constructive obligation because it arises from custom), for example, may in the future not be willing to bear such obligations. However, according to Hendriksen and Van Breda (1999, p. 410), in characterizing liabilities, “(...) there can be no freedom to avoid future sacrifice”, which leads to a conflict with the example cited. Hence, such situations generate difficulties for classifying obligations as equitable and constructive.
Therefore, there needs to be greater harmonization regarding the use of the concepts of legal, constructive and equitable obligations, both in Brazil and internationally, because it is still a polemic point, so that accounting and financial professionals can have a clearer guide and thus supply more information on companies’ liabilities that can be useful to users in making their decisions.

We hope the information in this study has contributed to increase knowledge about the disclosure of the liabilities of Brazilian companies according to international standards. Since this is still a little-investigated subject, we suggest further research on the theme.

References


