

PROPOSED AMENDMENTS TO EITF ISSUE No. 99-20
COMMENT LETTER SUMMARY

OVERVIEW

1. The comment period for the proposed FSP ended on December 30, 2008. Comment letters (CL) were received from 346 respondents (as of January 6, 2009), which are summarized below. Of the 325 comments letters received from preparers and related industry trade organizations, approximately 285 were letters indicating support for the proposed FSP and endorsing the comments on the proposed FSP made in the American Banker Association's (ABA) comment letter (CL # 15).

Respondent Profile

| Type of Respondent | Number |
|---|---------------|
| User | 10 |
| Preparer | 307 |
| Other (e.g., regulators, valuation firms, academic) | 9 |
| Financial Institution - Industry Organization | 18 |
| Accounting Firm/Auditors – Industry Organization | 2 |
| TOTAL | 346 |

Overall Position

| Overall Position | | | | | |
|--|------|----------|---|---|--|
| | User | Preparer | Other (e.g., regulators, valuation firms, academic) | Financial Institution - Industry Organization | Accounting Firm/Auditors - Industry Organization |
| Generally support the proposed FSP | 1 | 306 | 4 | 18 | 0 |
| Support proposed FSP but have significant comments | 0 | 1 | 5 | 0 | 2 |
| Do not support the proposed FSP | 9 | 0 | 0 | 0 | 0 |
| Total Respondents | 10 | 307 | 9 | 18 | 2 |

2. With the exception of user respondents, the majority of respondents supported the proposed FSP, with many emphasizing the need for a broader overhaul of the other-than-temporary impairment model in U.S. GAAP. The types of respondents that were in favor of the proposed FSP—subject to certain clarifications—included preparers (financial institutions and related trade associations), auditors (specifically, the Center for Audit Quality; CL #215), certain regulators (CL #245), and members of the valuation profession (such as CL #4 and 10). Many users (such as CL #9, 14, 206, and 220) were not in favor of finalizing the proposed FSP. These respondents expressed concerns about any shift away from fair value in the measurement of financial instruments (that is, the potential for delayed recognition of losses in earnings) and the shortened comment period for the proposed FSP.

SIGNIFICANT ISSUES

Overall

3. Respondents who *supported* the proposed FSP cited the following reasons:

- **Similar instruments assessed under different impairment models** - The Clearing House (CL #234) stated:

[The amendments to Issue 99-20 will] result is a single model for determining OTTI recognition for debt securities under U.S. GAAP. The proposed amendment is a critically required “fix” to eliminate inconsistent and misleading accounting outcomes for securities with similar credit facts and circumstances. The differing OTTI accounting determinations under [Issue 99-20 and Statement 115] have been highlighted by current market conditions.

- **Fair value declines due to liquidity, not changes in credit or prepayments, often trigger OTTI** - Wells Fargo (CL #19) stated:

A decline in fair value (or increases in market yield) to a certain level is considered prima facie evidence by independent auditors of an adverse change in estimated cash flows that market participants are signaling, which triggers OTTI recognition regardless of the probability of collecting the cash flows. In dislocated markets, EITF 99-20 securities can experience severe price declines due to factors other than credit risk (e.g., liquidity risk). This scenario has been exemplified by securities having experienced price declines while either the underlying assets are fully performing or significant protection against credit losses exists. We believe recognition of OTTI in such instances, because credit risk is presumed to have deteriorated solely based upon fair value declines (or market yield increases), is not appropriate and is not what EITF 99-20 intended.

Wells Fargo added:

Our response to this presumption is that the current low price / high yield required in the market is not a reflection of high expected losses in the investment security, but rather a by-product of the massive liquidity premium that is required in the market under current conditions for EITF 99-20 securities. This liquidity premium can be observed in the low prices / high yields required for even very senior AAA-rated investments of which few market participants would accuse of having any reasonable risk of credit loss.

Also, as part of its response, Wells Fargo provided examples of securities within the scope of Issue 99-20 that have few, if any, credit issues but would “automatically require recognition of OTTI by independent auditors” because of the price (and yield) at which they trade.

- **The Statement 115 impairment model is sufficient** -Wells Fargo (CL #19) stated:

Evaluation of credit risk for debt securities that are securitized financial assets requires evaluation of the credit quality of the underlying assets, how the cash flows from the underlying assets are distributed to the beneficial interest holders (cash flow waterfalls) and the subordination or other credit protection that exists relative to the reporting entity's beneficial interest that will absorb credit losses on the underlying asset pool. Assessing the probability of collecting future cash flows for EITF 99-20 securities requires careful study of these elements and application of reasonable management judgment, particularly in dislocated markets. FAS 115 requires the recognition of OTTI if it is probable the investor will be unable to collect contractually scheduled principal and interest payments. FAS 115 does not require exclusive reliance on a market participant's view of expected cash flows, thereby allowing for reasonable management judgment for assessing probability of collecting future cash flows.

- **International convergence** - The proposed FSP is a first step toward eliminating differences between the IASB's model and U.S. GAAP, which the ABA (CL #15) indicated "are likely to reflect materially different results for U.S. companies versus their foreign competitors in the area of OTTI for 2008 reporting."
- **Enhanced disclosures are not enough** - The American Council of Life Insurers (ACLI; CL #3) acknowledged the project added to the Board's agenda that will require additional disclosures related to financial instruments in 2008 year-end financial statements. However, the ACLI does not "believe that additional disclosure will provide as much meaning to financial statement users as [the changes in the proposed FSP and] the changes [they] have proposed to FAS 115... [adding that they] do not support that disclosure is an acceptable alternative to poor accounting requirements."

4. Respondents who *opposed* the proposed FSP cited the following reasons:

- **The proposal does not meet the needs of investors**

a. The Council of Institutional Investors (CL #9) stated:

Notwithstanding the questionable usefulness of current impairment models, until the goal of reporting all financial instruments at fair value is achieved, we would not necessarily oppose any effort by the FASB to align disparate OTTI models for instruments with similar economics at least to the extent that that alignment is directionally consistent with the ultimate goal. The Proposal, however, clearly fails in that regard.

They added:

More specifically, the Proposal moves further away from fair value reporting by proposing to replace the OTTI model of EITF Issue No. 99-20

(“99-20”) based on “market participant assumptions regarding future cash flows,” with the FASB Statement No. 115...OTTI model permitting “management judgment of the probability that the holder will be unable to collect the amounts due.”

The Council of Institutional Investors wrote that it generally supported the opinion of Sarah Deans and Dane Mott of J.P. Morgan: “Moving from the 99-20 [OTTI model] . . . to the weaker FAS 115 [OTTI model] . . . actually moves the measure of these assets further away from fair value and makes their OTTI determinations more subject to gaming, in our view.”

- b. R.G. Associates, Inc. (CL #14) stated, “The impairment model embodied in Statement 115 is far less prescriptive and invokes much more preparer judgment.” R.G. Associates added, “Moving to a Statement 115 model will not provide better information to investors than the current impairment model, and in fact, could lead to delayed recognition of impairments.”
- c. Encima Global, LLC (CL #1) stated:

An interpretation of the argument against EITF 99-20, therefore, is that companies do not want to use market participant assumptions or are unable to determine them; they'd rather use their own estimates and probability assumptions. One would have to question, then, how and why the company's own assumptions would stray significantly from its view of market participant's assumptions?
- d. The Federal Housing Finance Agency (FHFA; CL #289) stated:

Rather than amending EITF 99-20 to delete its use of a market-participant frame of reference, we believe financial reporting would be better served by adding an example to EITF 99-20 to clarify that management can in some circumstances judge that market participant's views as expressed in fair values and other market information may not reflect an expectation of reduced cash flows. Similarly, FASB should consider amending the probable loss illustration in FAS 115 to include a market participant reference point.
- e. J.P. Morgan Global Equity Research analysts have written that they have issues with the proposed FSP for a number of reasons, including that: “If adopted, this FSP would be effective for interim and annual reporting periods ending after December 15, 2008. As a result, for calendar year-end companies, the first three quarters of the year would apply the one impairment model and the fourth quarter would apply a different model.”
- **Concerns about the length of due process** - Several respondents voiced concerns about the 11-day comment period. See comment letters received from several users (CL #9, 14, and 220). Sarah Deans and Dane Mott of J.P. Morgan wrote, “A 10-day

comment period for a project of this nature is inadequate in our view....a considerable amount of stakeholders will be on holiday and have limited opportunities to respond,” thus potentially resulting in “inadequate due diligence.”

5. Question 1 of the Notice for Recipients of the proposed FSP (the Notice) asked whether respondents agreed with the Board’s decision that similar instruments should be subject to the same impairment model and whether respondents believed the presence of prepayment risk warranted a different impairment model.

- Wells Fargo (CL #19) stated:

We agree with the Board’s decision that there should be a single impairment model for debt securities based on FAS 115 and that the existence of prepayment risk should not dictate a more sensitive accounting trigger for the recognition of impairment.

- U.S. Central (CL #20) stated:

We agree with the Board’s decision to apply consistency in impairment models. . . . The existence of prepayment risk does not represent a reason for maintaining different impairment models. Many instruments, such as AAA-rated RMBS, are subject to prepayment risk, but are currently evaluated for impairment under the FAS 115 model, not EITF 99-20. Full collection of principal and interest should be the determining factor when evaluating any debt instrument for impairment, provided that the holder possesses the intent and ability to hold the asset to maturity or recovery.

6. Some respondents, who opposed the proposed FSP, believe that it is appropriate to have a single model, but that the EITF Issue No. 99-20, “Recognition of Interest Income and Impairment on Purchased Beneficial Interests and Beneficial Interests That Continue to Be Held by a Transferor in Securitized Financial Assets,” model (or full fair value) may be the more appropriate single model.

- R.G. Associates, Inc. stated:

If a Level C standard (No. 99-20) produces information more consistently representative of fair value than the Level A standard (Statement 115), then it would seem that there is a problem with Statement 115.

- ITAC (CL # 220) stated, “Our view is that it is more appropriate for the Board to address the impairment issues raised in the document by adding an agenda project for the total reconsideration of Statement 115, instead of a quick amendment of Issue No.

99-20.” ITAC adds, “[T]he proper question is not whether the Issue No. 99-20 impairment model needs amendment. The proper question is “why does Statement 115 not produce results that are more representative of fair values than Issue No. 99-20 in the current environment?” ITAC also noted, “Consistent with the aforementioned, we believe the presence of prepayment risk does not warrant a difference in accounting treatment, in and of itself, yet it provides another indicator supportive of a fair value measurement given the prepayment potential.”

7. Question 2 of the Notice asked whether the FASB Statement No. 115, *Accounting for Certain Investments in Debt and Equity Securities*, model is operational for beneficial interests currently within the scope of Issue 99-20.

- The ABA (CL #15) stated:

The FSP requested information about whether the SFAS 115 impairment model is operational for beneficial interests that were previously within the scope of Issue 99-20. It should be noted that as part of the service provided to community banks, sellers of certain types of securities provide estimated cash flows to the buyers of the securities upon request.... Based on input received to date from ABA members, it is our understanding that many community banks are already being required by their auditors to perform these cash flows.

- Wells Fargo (CL #19) stated:

We believe the Statement 115 impairment model is operational for securities currently within the scope of Issue 99-20 as their contractual cash flows are readily determinable. The use of the FAS 115 model actually reduces the complexity of financial reporting by utilizing an impairment model for debt securities that is similar to existing models utilized for evaluating impairment for investments in loans under FASB Statement No. 114, *Accounting by Creditors for Impairment of a Loans*, an amendment of FASB Statements No. 5 and 15 (FAS 114). Under both FAS 115 and FAS 114, an impairment charge is recognized in earnings if it is probable the investor/creditor will be unable to collect cash flows as contractually scheduled.

- U.S. Central (CL #20) stated:

Evaluation of a security previously within the scope of EITF 99-20 under the FAS 115 impairment model will require holders of such securities to model projected future principal and interest payments using current, forward-looking market assumptions. This type of projection is already performed for many structured securities not within the scope of EITF 99-20 (due to high credit ratings at acquisition) and could easily be extended to additional holdings.

8. Andrew Davidson & Co. (CL #4) also provided feedback on whether the proposed FSP is operational, making the following points:

Cash flow forecasts for mortgage-backed securities and other securitized assets are usually produced by first making assumptions about the performance of the underlying collateral and then inputting those assumptions into a system or program that computes the cash flows on the collateral and then the bonds. Generally we find that market participants use three types of cash flow forecasts for mortgage collateral: Pricing conventions, Model forecasts, Risk-neutral forecasts.

Model forecasts are used by a wide range of market participants. These models use loan characteristics and economic variables (such as interest rates and home prices) to project collateral performance {prepayments, delinquencies, defaults, severity). Because these models are often proprietary and because of their complexity, no two models will predict exactly the same cash flows, even under similar economic assumptions. Nevertheless by comparing the results of several models and looking at the historical performance of a model, it is possible to determine the reasonableness of a forecast.

In practice it is often easier to determine market participants' consensus on pricing conventions and risk-neutral forecasts than model forecasts. Pricing conventions are generally available to anyone who trades and risk-neutral forecasts can be derived from market prices. Yet for purposes of computing impairment[,] model forecasts are the most appropriate source of performance assumptions. Model forecasts help answer the question whether or not an investor will collect all amounts due according to the contractual terms of a security under a particular assumed economic environment. Therefore we support the proposed FSP because it gives firms greater ability to utilize model forecasts to compute impairment and recognizes that there is a degree of management judgment in the determination of the reasonableness of the forecasts.

Scope

9. Many of the respondents that support the proposed FSP indicated that the FSP should represent only the first step in a broader change of the impairment model for financial assets in U.S. GAAP. These respondents asked that the Board also consider other changes to the other-than-temporary impairment model as part of the proposed FSP or as part of an expedited project with the IASB.
10. Those changes included:
 - **Reconsidering the triggers for impairment**

Requirement to have the intent and ability to hold - ACLI (CL #3) recommended that the FASB “improve the trigger for OTTI on debt securities by eliminating the ‘intent and ability to hold’ requirement of FAS 115 and replace it with objective evidence of a credit event.”

Milford Federal Savings and Loan Association (CL #12) stated:

The OTTI issue has particular interest for us as we are a holder of the Shay Investment Ultra Short Mortgage Fund.... It is a mutual fund consisting of cash and mortgage debt securities. To date there has been no credit related impairment in the fund....The Shay Funds are in a similar situation as many of the EITF 99-20 securities: no credit impairment, but significant market value impairment. It seems odd to us that we would write down—permanently through earnings—impairment for these mutual funds while our competitors would not. It is my understanding that one issue that works against the treatment of such funds as debt securities is management control. Shay controls the fund and the bank's management does not actually manage the fund. Therefore, we as bank management cannot say that we have the intent and ability to hold the underlying securities until market values recover. However, a sound position can be taken that both Shay and we have demonstrated intent and ability to hold the underlying securities until the market improves. The Ultra Short Mortgage Fund has only allowed redemptions in kind to those who wish to liquidate their shares. This redemption in kind, which has been in force for several months, was put in place to protect the value of the fund and underlying investments by not selling them at unnecessary losses. This would indicate that Shay has the intent and ability to hold the securities until the market values recover.

Requirement that all cash flows be collectable as originally scheduled or estimated – Federal Home Loan Bank of Atlanta (FHLBA; CL #11) stated, “The proposed FSP draws on the provisions of paragraph 16 of FASB Statement No. 115, *Accounting for Certain Investments in Debt and Equity Instruments*. This provision of FASB Statement No. 115 states, ‘if it is probable that the investor will be unable to collect all amounts due according to the contractual terms of a debt security not impaired at acquisition, an other-than-temporary impairment shall be considered to have occurred.’”

FHLBA added:

The proposed FSP and FASB Statement No. 115 contain the following instructions, “The provisions of this Statement (or FSP) need not be applied to immaterial items.” The FASB prominently included this statement at the end of these standards and highlighted this statement by placing a bold box around the statement. However, in practice, many have ignored the FASB's instructions regarding materiality and have concluded that the concept of materiality should not be applied to the provisions of paragraph 16 of FASB Statement No. 115. Instead, they contend, that even de minimis cash flow

short-falls should result in recording other-than-temporary impairment losses. As a result, an insignificant credit loss can result in a grossly disproportionate impairment charge.

FHLBA concluded:

We recommend the FASB Staff include specific language stating that the provisions of proposed FSP and the FASB Statement No. 115 related to the determination of an other than- temporary impairment are subject to materiality considerations.

Other respondents noted a similar phenomenon. For example, CharterBank (CL #5) stated, “while we took an \$87 million OTTI charge we expect over the life of the security to have only a \$45,000 cash loss.”

- **Reconsidering the use of fair value to measure impairments** – FHL Banks (CL #148) recommended, “The amount of loss recognized in earnings would be based on the difference between the carrying amount of the instrument and the present value of the estimated future cash flows discounted at the instrument original effective interest rate.”
- **Reconsidering the prohibition against reversals of OTTI** - The ABA (CL #15) stated, “It is also illogical that recording OTTI results in permanently recognizing losses in income without the ability to reverse those losses if the amount of OTTI recognized improves.” The ABA recommends that any recoveries of OTTI be reversed through earnings.
- **Permitting the effective date for recent transfers to HTM or AFS to be the same effective date used by the IASB (see ABA, CL #15)** –In October 2008, the IASB published amendments to permit reclassification of some financial instruments. The amendments to IAS 39 introduce the possibility of reclassifications for companies applying IFRSs, which were already permitted under US GAAP in rare circumstances (for securities). The amendments indicated, in part, that, “An entity shall apply those amendments from 1 July 2008.”
- **Clarifying the definition of fair value - clarify that liquidity risk referred to in FSP FAS 157-3 is not based on distressed sales** - The ABA (CL #15) stated:

The application of FSP FAS 157-3, in practice, appears to be circular. It requires inclusion of the liquidity risk that a market participant would use in estimating fair value; however, it also acknowledges the need for the use of significant judgment and does not require reliance on distressed sale prices for estimating fair value. In this market, the inclusion of liquidity risk that a market participant would use brings the value back to distressed sale prices. The goal should be to estimate a reasonable fair value — the exchange price involving a willing buyer and willing seller in an arm's length transaction that is not a force sale. Preparers should maximize the use of observable inputs,

and make a reasoned judgment about what would represent a fair value in a liquid market.

- **Clarifying the definition of fair value - remove market participants' perspective** - Marshall & Stevens, Inc. (CL #10) indicated that they support the removal of market participants from Issue 99-20. They request “that [the Board] not try to limit this new approach to a certain small class of beneficial interests” and encouraged the Board to expand the scope of this change effectively by amending the definition of fair value in FASB Statement No. 157, Fair Value Measurements, to remove the market participants' perspective.
11. Respondents who opposed the proposed FSP would also like the Board to consider alternatives to the existing OTTI models, though their approach would likely differ from many of those that favored the proposed FSP.
- ITAC (CL # 220) stated, “Our view is that it is more appropriate for the Board to address the impairment issues raised in the document by adding an agenda project for the total reconsideration of Statement 115, instead of a quick amendment of Issue No. 99-20.” ITAC adds, “[T]he proper question is not whether the Issue No. 99-20 impairment model needs amendment. The proper question is ‘why does Statement 115 not produce results that are more representative of fair values than Issue No. 99-20 in the current environment?’”
 - The Council of Institutional Investors (CL #9) stated:

[T]he needs of investors and other consumers of financial reports are best satisfied by requiring that all financial instruments be accounted for at fair value accompanied by robust disclosures. We note that such an approach would eliminate the need for the Proposal because other-than-temporary impairment (‘OTTI’) models would not be necessary if all financial instruments were reported at fair value.”

OBJECTIVE AND BACKGROUND

12. The Center for Audit Quality (CAQ; CL# 215) recommended that the example included in paragraph 5(a) of the background section of the proposed FSP, which refers to a noninvestment grade beneficial interest be amended as they “are concerned that some may misinterpret the example as an indication that the Board intends to change the scope of the beneficial interests to which EITF 99-20 applies (i.e., what instruments are considered not of high credit quality).”
13. The CAQ also indicated that if the Board intends to address reassessment of whether a beneficial interest is within the scope of Issue 99-20, they should do so by amending

Issue 99-20 and providing transition guidance, rather than referencing reassessment in the background section of the proposed FSP. Genworth Financial (CL #240) expressed a similar concern, “because we believe there are inconsistent interpretations about whether the scope is determined only at original issue or if beneficial interests are to be reassessed each reporting period, we would appreciate the addition of clarifying language in the scope section of the final FSP EITF 99-20-a.”

PROPOSED AMENDMENTS TO ISSUE 99-20

14. The proposed FSP deleted the words “(or an adverse)” from paragraph 12(a) of Issue 99-20. The CAQ (CL #215) stated:

This phrase should remain because if the estimated cash flows increase (resulting in a higher yield), and then subsequently decrease (resulting in a lower yield), the yield should be adjusted downward. The decline (after the initial increase) may not result in an impairment because the fair value (or revised present value of the estimated cash flows) may continue to exceed the “reference amount,” which is appropriately used in paragraph 12(b) to define when an impairment exists.

15. The CAQ also noted clarifications should be made to paragraph 12(b) to make it more operational and avoid any potential unintended consequences.

- The CAQ stated:

For securitizations that have a contractual waterfall, the beneficial interests, by definition, always collect all amounts due according to the contractual terms. Therefore, an other-than-temporary impairment would never exist under a literal reading of Statement 115 for these debt securities. EITF Issue 99-20 was initially issued for this reason, among others.

- The CAQ added:

To accomplish the FASB’s goals, paragraph 12 of EITF 99-20 should be amended to (a) require the holder to update the estimated cash flows over the life of the beneficial interest, (b) determine whether, based on current information and events, it is probable, as defined in FASB Statement No. 5, *Accounting for Contingencies*, that there has been an adverse change in the estimated cash flows as compared to the cash flows previously projected, and (c) recognize an other-than-temporary impairment when it is probable that an adverse change in estimated cash flows has occurred and the beneficial interest's reference amount exceeds its fair value. In other words, the existing EITF 99-20 methodology should be retained in its entirety, except that the cash flow definition would be changed so that it does not refer to market participants, but rather to the holder's estimate of the cash flows.

16. General Electric (GE; CL #258) noted similar concerns stating:

Substituting the probable recoverability test contained in paragraph 16 of SFAS 115 for the current Issue 99-20 test is problematic as the contractual terms of the most subordinated beneficial interest tranches give the holder the right to receive only excess cash flows; or said another way, the holder's right is to receive whatever is left over. As the proposed FSP is written, a holder of such a beneficial interest which has experienced adverse cash flows will still collect all amounts due according to the contractual terms of a debt security, but the amount due will be less than previously expected.

GE added:

We believe that the model in the existing paragraph 12(b) test in Issue 99-20 remains appropriate for the most subordinated beneficial interests in a securitization which typically are not rated and are most exposed to prepayment risk and for which, the concept of contractually due cash flows does not apply in the sense it is applied in paragraph 16 of SFAS 115.

17. Andrew Davidson & Co. (CL #4) requested that the Board clarify the definition of "probable" in the determination of impairment.

18. FHFA (CL #289) stated:

In paragraph 4 to the appendix of proposed FSP EITF 99-20a, FASB notes that some constituents believe OTTI is essentially automatic under EITF 99-20 in a disrupted market. We disagree and believe that credit spreads and liquidity premiums can lower asset values without deterioration in expected cash flows. At some point, however, the likelihood that an asset's price decline is due solely to the price of risk becomes improbable, and it becomes probable that some portion of its impairment reflects the market's expectations that future cash flows will be reduced.

FHFA added:

OTTI analysis and fair value measurement are closely intertwined. SEC SAB Topic 5M states, in part, "...management should consider all available evidence to evaluate the *realizable value* of its investment" (emphasis added). The SEC elaborated that determining the realizable value of a security should begin with its contemporaneous market price as that price reflects the market's most recent evaluation of the total mix of available information, and that objective evidence is required to support a realizable value in excess of the contemporaneous market price. The SEC has indicated that this rationale applies to both marketable debt and equity securities.

Hence, an impaired security's fair value is a fundamental consideration in OTTI analysis. To determine fair value under FAS 157, one must consider "the assumptions

that market participants would use in pricing the asset or liability.” The proposed changes to EITF 99-20 could allow management, which purchased and holds impaired securities, to substitute its judgments for the inferred assumptions of market participants who are willing to purchase or sell similar securities. This change would be directionally inconsistent with FAS 157 [and] would not advance the goal of providing transparent, objective information to financial statement users. To the extent that the final guidance clarifies that management may reasonably judge that fair value changes for securitized instruments may not always reflect changes in expected cash flows, we do not object. However, the final guidance should retain a connection to market participants’ views or its risks diminishing the reliability and relevance of the underlying judgments to financial statement users. [Footnote references omitted]

OTHER AMENDMENTS

19. Genworth Financial (CL #240) wrote:

We encourage the Board to consider any technical cross-references to other FASB pronouncements. For example, footnote 21c of FSP FAS 157-3 indicates that the discount rate adjustment technique for determination of fair value is inappropriate for consideration of impairments under EITF 99-20. Given that the FAS 115 impairment model permits the use of reasonable management judgment of the probability that the holder will be unable to collect all amounts due, we question whether footnote 21c of FSP FAS 157-3 is contradictory to the intent of the FASB to create one impairment model for similar securities. We ask the Board to consider whether technical cross-references exist that may introduce interpretations of FSP EITF 99-20-a that do not align with Board's intentions.

EFFECTIVE DATE AND TRANSITION

20. The FSP proposed that the guidance in the FSP be effective for interim and annual reporting periods ending after December 15, 2008, and applied prospectively. Respondents who favored the proposed FSP supported the proposed effective date and transition.

21. Various regulatory agencies (CL #245) stated:

The Board should consider addressing the effective date to ensure consistent application by both public and nonpublic entities that have issued interim financial statements and reports, including regulatory reports, during 2008, and to clarify that entities should not reverse impairment write downs taken in reporting periods prior to implementing this FSP (e.g., during the first three quarters of 2008).

22. The CAQ indicated:

So as to avoid any confusion as to whether the proposed FSP would allow a reporting entity to reverse previously reported other-than-temporary impairment charges recognized under the current version of EITF 99-20, compared to what those impairment charges would have been, if any, under the proposed FSP, we suggest that a sentence be added explicitly stating that retrospective application of the FSP is prohibited.