

Letter of Comment No: 240 File Reference: 1204-001

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November 10, 2005

Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: Comments on the Exposure Draft "Business Combinations, a replacement of FASB Statement No. 141" (File Reference No. 1204-001)

Dear Director:

We appreciate the opportunity to comment on the FASB's Exposure Draft, "Business Combinations, a replacement of FASB Statement No. 141" (the "Proposed Statement"). This letter summarizes our positions and comments on the Proposed Statement.

Question 1, Objective, Definition, and Scope - Determining (the acquisition date)

Are the objective and the definition of a business combination appropriate for accounting for all business combinations? If not, for which business combinations are they not appropriate, why would you make an exception, and what alternative do you suggest?

We disagree with the proposal, as discussed in paragraphs B53 – B55, to eliminate the "convenience" exception. This exception allowed the acquirer to designate an alternative date for the acquisition (i.e., as if it took place at the beginning of the acquirer's reporting period). Given the disruption that occurs in an acquired entity, forcing a mid-month closing can be onerous, can delay the preparation of quarterly and annual filings (the timing for which gets tighter and tighter) and, frankly, can produce a slow start for the more important process of the fair value allocations. Allowing for a date of convenience permits the acquiree to close on its historical closing schedule without developing an artificial stub-period that disrupts general ledger closings and adds tremendous work to the process without any clear benefit.

The requirement to report for the period ending other than on a regular closing schedule creates several challenges most of which stem from the imbedded functionality of the accounting systems. Typically, these systems do not have the faculty to close mid-period. The acquirer would be presented with extraordinary challenges when the acquiree is a large organization that utilizes multiple accounting systems and various data-managing platforms that could not be easily and timely converted to allow the cut-off information to be accumulated for accurate

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reporting. If the acquirer will be obligated to report on the mid-period financial results, it would entail creating estimates and backtracking from the period end. Estimating adjustments might potentially cause incorrect reporting of the stub-period. In addition, the acquirer would undertake the project to covert the books and records of the acquiree to the same platform as used in-house. These projects present their own obstacles and can sometimes take a year to complete.

Question 7, Costs incurred in connection with a business combination

Do you agree that the costs that the acquirer incurs in connection with a business combination are not assets and should be excluded from the measurement of the consideration transferred for the acquiree? If not, why?

We disagree with your conclusion that acquisition-related costs (e.g., finder's fees, advisory, legal, accounting, valuation, other professional or consulting fees, etc.) should be excluded from the measurement of the consideration transferred for the acquiree. One of the fundamental principles of accounting is that the cost of an asset, which includes all of the resources expended, represents the minimum value of that asset to the acquirer. The acquisition-related costs are an integral part of this type of transaction and should be captured and included in the basis of the investment in addition to the fair value of the assets and liabilities acquired. We believe that determining the amount to purchase an entity should be similar to determining the price to purchase an individual asset. The Proposed Statement creates a significant distinction between an asset purchase and a business combination, when the difference in economic substance is minimal. We urge the staff to reevaluate this provision of the Proposed Statement in light of its apparent contradiction to the prevailing GAAP for an asset acquisition.

Question 8, The Proposed Statement proposes various changes to the accounting for business combinations, including:

- a. Receivables (including loans) acquired in a business combination would be measured at fair value.
- b. FASB Statement No. 5, "Accounting for Contingencies," would be amended to exclude from its scope assets or liabilities arising from contingencies acquired or assumed in a business combination these items would be required to be measured at fair value.
- c. Costs associated with restructuring or exit activities (which are not governed by FASB Statement No. 146) are not liabilities, but expenses.
- d. Research and development assets would be recognized and measured at fair value.

Do you believe that these proposed changes to the accounting for business combinations are appropriate? If not, which changes do you believe are inappropriate, why, and what alternatives do you propose?

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We disagree with the Proposed Statement that certain contingencies be measured at fair value with subsequent changes in fair value recognized in income in each reporting period. Unlike FASB Statement No. 133 and other fair value-based accounting literature, the Proposed Statement speaks entirely to items that do not have the readily available market information of financial instruments. We believe that the monthly marking-to-market of contingencies without available references to quoted market values (or their equivalents) would be very judgmental, complicated and exceedingly time-consuming in an era when the SEC is shortening its deadlines for financial filings. The techniques that would be required to value these items fall beyond the scope of customary valuations in that they require the expertise of professionals other than valuation experts, such as lawyers and environmental engineers. We find this to be a very cumbersome and onerous requirement, and given the limited time to accomplish this task and the need for excessive judgment in the absence of available market information, we believe that the resultant values will not be useful.

Question 9, Limited exception to the fair value measurement principle (e.g., those related to deferred taxes, assets held for sale, employee benefits, etc.)

Do you believe that these exceptions to the fair value measurement principle are appropriate? Are there any exceptions you would eliminate or add? If so, which ones and why?

We urge the Board to reconsider an amendment to Statement 109 allowing for indefinite lived intangibles to receive the same deferred tax exemption given to goodwill. If an intangible asset were to change and have a definite life, the deferred tax could be recorded at that time. An unintended consequence of the proposed treatment is that goodwill must be grossed up for the amount of deferred taxes, often to a point that it is hard to sustain, which might result in impairment.

Question 13, Adjustments to prior periods presented in financial statements

Do you agree that comparative information for prior periods presented in financial statements should be adjusted for the effects of measurement period adjustments? If not, what alternative do you propose and why?

We disagree with the Board's proposal that would require the acquirer to adjust information for prior periods presented in the financial statements for the effects of measurement period adjustments. We believe that this obligation would make it onerous for companies to provide information that would serve limited benefit for the investors. We believe that, during the time needed to finalize an acquisition balance sheet, there should be no requirement to constantly restate previously reported earnings for measurement and period adjustments. We further believe that such constant restatement would be time consuming and thereby delay finalization of an acquisition balance sheet. We would rather see a fully disclosed true-up entry in the period in which the provisional allocation is changed.

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If you have any questions related to this letter, please do not hesitate to contact me.

Very truly yours,

Joseph A. Tiesi Vice President and Controller