



October 27, 2004

Mr. Lawrence W. Smith  
Chairman  
Emerging Issues Task Force  
Financial Accounting Standards Board  
401 Merritt 7  
Norwalk, Connecticut 06856-5166

Letter of Comment No: 81  
File Reference: EITF03-1A

Re: Proposed FASB Staff Position EITF Issue 03-1-a

Dear Mr. Smith:

America's Community Bankers ("ACB")<sup>1</sup> appreciates the opportunity to comment on the Proposed FASB Staff Position EITF Issue 03-1-a ("FSP 03-1-a"). ACB strongly supports the FASB's efforts to delay the effective date of EITF Issue 03-1 "The Meaning of Other-Than-Temporary Impairment" ("EITF 03-1") as it applies to debt and equity securities as an interim step. ACB would welcome a common approach to evaluating other-than-temporary impairment for investments that would reduce inconsistent application of impairment models for securities currently accounted for in accordance with Opinion 18 and FAS 115. However, we do not believe that the guidance in EITF 03-1 nor the proposed implementation guidance in EITF 03-1-a provide this consistency. We urge the FASB to withdraw its ratification of the EITF 03-1 consensus.

### **ACB Position**

In our letter dated August 24, 2004, ACB requested a delay in the effective date of EITF 03-1 due to a significant amount of input received from our members on the apparent misapplication by some accounting firms. Much of the guidance in EITF 03-1 on evaluating whether an impairment should be deemed other-than-temporary is inconsistent with, and essentially represents an amendment to, FAS 115. Financial institutions of all sizes hold debt and equity securities to attain various financial objectives, including hedging their interest rate risk. Many of these securities are held in the available-for-sale ("AFS") category in accordance with FAS 115. When the value of these AFS securities

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<sup>1</sup> America's Community Bankers is the member-driven national trade association representing community banks that pursue progressive, entrepreneurial and service-oriented strategies to benefit their customers and communities. To learn more about ACB, visit [www.AmericasCommunityBankers.com](http://www.AmericasCommunityBankers.com).

decrease due to interest rate increases, the unrealized losses are currently recorded in other comprehensive income ("OCI").

ACB believes that under current accounting literature and in current practice, banks carefully and appropriately evaluate the impairment of AFS securities accounted for under FAS 115. Neither ACB, nor its members, were aware of any confusion or abuses when asserting that as investors in fixed income securities they possessed the ability and intent to hold an interest rate impaired investment until a forecasted recovery period. To reiterate our explanations in previous comment letters to the FASB, we would like to remind FASB that banks commonly change their intentions of AFS securities that have decreased in value due to interest rate shifts. This change in intent and ability to hold arises out of the mere nature of a bank's asset and liability mix of financial instruments, with the values of the instruments adjusting due to unexpected shifts in interest rates inevitably causing a bank to buy or sell some of the financial instruments to hedge and manage their interest rate risk exposure or for liquidity purposes.

ACB believes the current ambiguous language in paragraph 16 regarding the "pattern" of selling underwater securities will afford external auditors too much leeway in calling into question an investor's previously asserted intent to hold such securities. While we appreciate FASB and the EITF's attempt at providing clarification, we are unconvinced that the implementation guidance in EITF 03-1-a does much in the form of mitigating our concerns. Notwithstanding the implementation guidance in EITF 03-1-a, this ambiguity is likely to cause unnecessary impairment charges and earnings volatility on the financial statements by inappropriately requiring an impairment charge for unrealized losses associated with AFS securities that are likely to be held for a forecasted recovery period, despite the sale of other underwater securities in that portfolio. For these reasons, we urge the FASB to withdraw its ratification of the EITF 03-1 consensus, and consider delaying the effective date of EITF 03-1 indefinitely in order to prevent such unintended financial statement consequences.

If FASB decides to maintain EITF 03-1 as guidance, we support the changes proposed in FSP EITF 03-1-a and we further urge the Board to continue carefully evaluating the issues raised above, and continue meeting with constituents to gain a better perspective on the potential implications of a standard that, in its current form, may be impossible to reasonably apply. Additionally, ACB opposes the proposed guidance defining "*minor impairment*" as an impairment of five percent or less. We believe that financial statement preparers and auditors are capable of applying the notion of "*minor impairment*," without FASB providing a "bright-line" test of five percent or any other numerical threshold.

### **Equity Securities**

We would also like to take this opportunity to echo the concerns of many of our members on the potential impact EITF 03-1 could have on banks in the northeast region of the U.S. that hold equity securities in their investment portfolios. ACB is concerned that an abrupt interpretation of EITF 03-1 could seriously jeopardize the ability of these banks to

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continue utilizing these assets to meet liquidity needs and diversify risk on their balance sheets.

### **Conclusion**

ACB strongly urges the FASB to take immediate action in reconsidering the ratification of the EITF consensus, and withdraw the guidance in EITF 03-1. If ignored, ACB believes that this ambiguous guidance, which is inconsistent with FAS 115 principles, will be inappropriately applied and is likely to cause material distortions in financial statements, confuse investors, and promote a rules-based accounting system.

We appreciate your consideration of our comments and stand ready to assist the FASB and EITF in reaching a workable solution to this issue. Please feel free to contact me at 202-857-3158.

Sincerely,



Dennis M. Hild  
Vice President – Accounting and Financial Management Policy  
America's Community Bankers