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Mr. Lawrence W. Smith
Director, Technical Application and Implementation Activities
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Re: Proposed FASB Staff Position FSP EITF Issue 03-1-b, "Effective Date of Paragraph 16 of EITF Issue No. 03-1, "The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments"

Dear Mr. Smith:

We support the Board's proposal to defer the applicability of paragraph 16 of Issue 03-1, to provide the Board time to finalize implementation guidance applicable to certain situations. It is sensible for preparers to not initially adopt new guidance, while the FASB is deliberating how that guidance is meant to be interpreted. Not providing a deferral could cause problems in the consistency with which financial statements can be prepared.

We also suggest that the Board describe the principle underlying impairment considerations, as we believe there is an inconsistency in the principles being employed within paragraph 16 of EITF 03-1.

Additionally, this letter recommends certain modifications to the deferral, which would make the final FSP easier to understand and avoid potential inconsistencies in the application to securities not in the scope of the deferral as proposed.

Need for a statement of principle

Fundamentally, we believe the implementation issues being discussed by the Board arise because there is no basic statement of principle regarding the recognition of a loss for an other-than-temporarily impaired security.

Furthermore, the manner in which some have interpreted Issue 03-1 implies an application of a different fundamental principle to impairments arising from issuer credit deterioration, versus other-than-credit related impairments. Paragraph 16(b) specifically calls for 'probable' losses to be recognized as other than temporary impairments. (This concept can be found using much the same language, directly in FAS 115, with specific cross-references to FAS 114, where much the

same language was also used.) The underlying principle is to record a loss, when a loss is probable; this is a well-understood and well-established principle.

The current interpretation of paragraph 16(a) turns that concept around – instead of requiring a high degree of likelihood to record a loss, the current interpretation requires a loss be recorded, unless there is a high degree of likelihood there will be no loss, as represented by an investor's (near) absolute ability and intent to hold the investment until a forecasted recovery in value. Oddly, this establishes a much lower threshold for loss recognition for items within management's control (such as realizing interest-related losses through sales), as compared to causes of loss outside of management's control (such as losses due to non-payment by the issuer). Further, this is at odds with the concept in FAS 115 permitting the Available-for-sale categorization.

We believe that as part of the Board's ongoing discussions, the Board should agree upon an underlying principle, share that principle as part of the implementation guidance, and ensure that the implementation guidance is consistent with that principle.

Extend the scope

The proposed FSP EITF Issue 03-1-b describes a deferral of the applicability of paragraph 16 of EITF 03-1 to debt securities impaired solely because of interest rate and/or sector spread increases. Paragraph 16 describes two situations that indicate an impairment is other than temporary. The '16(a) test' relates to situations where the investor has the ability and intent to hold the security until a forecasted recovery. This test is the subject of the implementation issues the Board is addressing; any implementation guidance the Board issues will impact all impairment considerations under paragraph 16(a) as it will address how to gauge an investor's ability and intent. Therefore, the deferral should apply to all impairment considerations under 16(a), not only those related to securities impaired solely because of interest rate or sector spread increases.

Further, we believe the ongoing deliberations may have an impact on debt and equity securities considered for other than temporary impairments under paragraphs 10-15 of EITF 03-1. In particular, the Board has solicited comments on whether 'minor impairments' of debt and equity securities considered for loss recognition under paragraphs 10-15 should be considered temporary. Additionally, questions about whether a pattern of sales exists, and how such a pattern may impact an investor's assertions regarding ability and intent, which the Board is addressing, arise for equity securities and debt securities considered under paragraphs 10-15. Therefore, the deferral proposed by FSP EITF Issue 03-1-b should be extended to those securities considered for impairment under paragraph 10-15.

This broader deferral is necessary, given the significant and unresolved issues being discussed by the Board, and our view that the Board's resolution of those issues may apply to all investments in debt and equity securities.

Sincerely,

Peter B. Sayre