



Letter of Comment No:5004  
File Reference: 1102-100

Benjamin F. McGraw, III  
Chairman, President and CEO

June 25, 2004

Financial Accounting Standards Board  
Director of Major Projects  
File Reference No. 1102-100  
401 Merritt 7 (P.O. Box 5116)  
Norwalk, CT 06856-5116

Re: **Share-Based Payment, an amendment of FASB Statements No. 123 and 95**

Dear Sirs & Madams:

I am writing to express my company's grave concerns with the stock-option expensing requirements described in Proposed Statement of Financial Accounting Standards, Share-Based Payment, an amendment of FASB Statements No. 123 and 95 (the Exposure Draft). This proposal, if implemented, will have a negative impact on the future of the biotechnology industry in the United States and the ability of Valentis to attract future capital and provide accurate and meaningful financial information to its shareholders. I urge you to delay implementation of these requirements and to consider alternatives that would require enhanced disclosure of employee stock options and their dilutive effects on the price of shares.

Over the past decade, biotechnology has fast become a global industry. What's more, the U.S. biotech industry has become the standard other countries aspire to in developing robust, entrepreneurial biotech communities. The vast majority of companies that comprise this community in the U.S. do not yet have products in the marketplace. Instead we are engaged in a 10-12 year effort to get our first product approved. During this period, we use stock options to leverage tight payroll budgets to not only attract the best and brightest scientists and technicians but to retain them through the product development cycle. These are products which enhance and enrich all our lives.

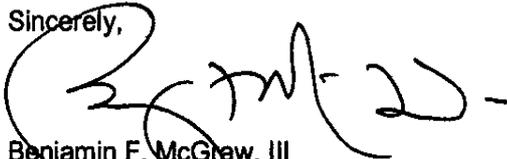
In addition to the detrimental effect on industry recruitment, the FASB completely disregarded widespread concerns about the inability to accurately value employee stock options. Without a precise and reliable valuation method, mandated expensing will substantially over-inflate the value of employee stock options, resulting in financial statements that do not serve investors, shareholders or employees. The high stock price volatility in our industry, when combined with other highly subjective assumptions, can yield an unacceptably wide range of results. While it may be useful to disclose a hypothetical charge in the footnotes to the financial statements, the inclusion of employee stock option expense in the statement of operations will result in less clarity consistency and reliability of the financial statements. The sensitivity of the option pricing models to the significant estimates and judgments would permit two similar companies to have significant differences in the reported expenses.

Because it costs hundreds of millions of dollars over the course of a decade to bring a new product to market, biotech companies rely on a steady influx of capital from investors to fund research and development. As investors weigh competing opportunities, they look to financial statements for clear, accurate information about each company's performance. Mandatory expensing under the FASB's proposed approach, however, will cause unnecessary distortion in the companies' financial statements. As a result, biotech companies forced to expense

the estimated fair value of stock options may well find themselves at a disadvantage versus other types of ventures with shorter product development cycles.

Again, I urge you to delay implementation of these requirements and to consider alternatives that would require enhanced disclosure of employee stock options and their dilutive effects on the price of shares. I understand the need for corporate reform, but penalizing entrepreneur companies that were not the target of these reform efforts, is not the answer.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. McGraw, III', with a large, stylized initial 'B' and a horizontal line extending to the right.

Benjamin F. McGraw, III  
Chairman, President and CEO