



Letter of Comment No: 59
File Reference: 1204-001

October 28, 2005

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

Re: File Reference 1204-001 – Proposed Statement of Financial Accounting Standards, “Business Combinations, a replacement of FASB Statement No. 141”

Dear Technical Director:

AmSouth Bancorporation (AmSouth or the Company) appreciates the opportunity to comment on the above-referenced proposed standard. AmSouth is a regional bank holding company with \$50 billion in assets, more than 680 branch banking offices and over 1,250 ATMs. AmSouth operates in Florida, Tennessee, Alabama, Mississippi, Louisiana and Georgia. AmSouth is a leader among regional banks in the Southeast in several key business segments, including consumer and commercial banking, small business banking, mortgage lending, equipment leasing, and trust and investment management services.

AmSouth submits the following comments on certain questions outlined in the proposed standard and raises some general issues for the Board’s consideration.

General

AmSouth applauds the joint efforts of the FASB and IASB to converge U.S. GAAP with International GAAP where there are significant inconsistencies. We believe this effort will increase comparability between US and foreign entities. However, convergence for the sake of convergence can create other inconsistencies that decrease reliability, comparability and transparency, particularly in U.S. GAAP. Paragraph 42 of FASB Concept Statement No. 1 states that financial reporting should provide information about an enterprise’s financial performance during a period. Paragraph 43 of that Concept Statement goes on to describe the primary focus of financial reporting, which is an enterprise’s earnings. Generally speaking, we believe that earnings should largely represent the excess cash flows earned during a period, based on the net assets at the enterprise’s disposal and not necessarily the impact of markets on those net assets unless, of course, impairment exists. Fair value accounting distorts this metric and the return those net assets have provided. Paragraph 50 of FASB Concept Statement No. 1 states that financial reporting should provide information about how management has discharged its stewardship responsibility to shareholders for the use of net assets. Fair value accounting may involve assumptions that are necessarily not related to the use of net assets, particularly when no recognized market exists. For these reasons we believe that fair value accounting results in inadequate financial reporting that is less reliable, less transparent, less relevant and largely subjective.

Question 1

We recommend that the Board consider providing a scope exception to “acquirers” who passively obtain control, which are further described in paragraph 6(i) of the proposed standard. We believe incorporating these transactions into the scope of this proposed standard distorts the assets and liabilities of the “acquirer” by overstating the rights and obligations of the entity. Further, allowing “acquirers” to include a gain or loss on such an event that has created no economic substance distorts the financial reporting model. The investment is the same, and the “acquirer” has no more incremental rights/obligations than before the transaction occurred. On the flip side, control could be lost passively.

Question 3

We do not agree with the Board's conclusion that an acquirer of less than 100 percent of the equity interests should consolidate 100 percent of the target at an extrapolated fair value. Business combinations typically involve the acquirer paying a premium to acquire an entity as a whole (typically referred to as a control premium). If an entity obtains control by acquiring a majority of the equity interests, the fair value of the noncontrolling interests and the fair value of the controlling interest may not be proportionate. Therefore, the concept of recording minority interest in proportion to the fair value of the entire entity appears counterintuitive and could result in impairment on day one. We believe that the minority interest should be valued at remaining book value of the target entity, because that amount represents the proportionate share of the net assets of the target entity to which the minority interest holder(s) would be entitled.

Question 6

We applaud the Board for attempting to remain consistent with existing U.S. GAAP, specifically EITF 00-19. However, the Board appears to be applying this guidance regardless of whether the settlement method is designated as cash only. We agree that if the settlement method meets the criteria for evaluation under EITF 00-19, such an evaluation of the characteristics of a business combination agreement should be performed as provided by that Issue. However, for contingent consideration that is settled in cash only, the recognition of a liability, the probability of which is remote, at the acquisition date is inconsistent with the probable threshold outlined in FAS 5 and does not necessarily represent the value exchanged in the business combination. In fact, the value of the actual consideration transferred would be based on the value of the consideration paid/received, provided that the contingent service is performed. Thus, contingent consideration is the "dangling carrot" that sustains the acquisition date fair value of the entity acquired. Also, the subjectivity introduced to the financial statements prohibits transparency. Such "mark to market" implications do not appropriately reflect the results of the current period. We propose following a FAS 5 model for cash settlement that would provide for disclosure and require the acquirer to record the liability upon the payment becoming probable.

Question 7

We agree with the Board's conclusion that the costs an acquirer incurs in a business combination are not assets. However, we believe that these costs do not reflect an expense expressed as a period cost in the period a business combination is executed. Such costs are not the result of an earnings process, but rather the result of the acquisition of the net assets of an enterprise. The acquisition and the acquisition costs are inseparable, in that one does not exist without the other. Thus we believe that such costs should be included in the fair value of the consideration exchanged, just as is in practice today.

Question 8

We disagree with the Board's conclusions regarding recognition of acquired receivables and contingencies. The lack of a valuation allowance for acquired receivables reduces transparency and comparability in financial reporting. We believe this guidance is similar to that found in SOP 03-3, which is impractical to implement, and object to the inclusion of such a principle in this proposed standard. This provision does not provide insight to the investor as to the credit risk to which the new entity is now exposed. Further, we believe that the Board is including a model (i.e. the methodology described in SOP 03-3) that has not been subject to the Board's due process. This not only adds unnecessary complexity to U.S. GAAP but also adds a higher degree of subjectivity in management's estimate.

The proposed amendment to FAS 5 to exclude from its scope assets or liabilities arising from contingencies acquired or assumed in a business combination further reduces comparability and reliability by adding an unnecessary inconsistency within U.S. GAAP and requiring an estimate of fair value that is highly subjective. Additionally, remeasuring such "assets and liabilities" at fair value on a period by period basis does not necessarily represent the cash flows of an entity specific to that period; the measurement would reflect a change in management's estimate or a change in the facts and circumstances of the contingency, neither of which appropriately reflect the financial performance of the entity given the high degree of subjectivity involved in arriving at such an estimate of fair value. For this reason we believe that such assets and liabilities should not be recorded on the acquisition date unless the criteria in FAS 5 are met.

Question 10

As mentioned in our response to Question 3, we believe that the extrapolation of fair value to non-controlling interests is inherently flawed because such a calculation would most likely yield an inaccurate result. We believe that applying similar accounting to business combinations achieved in stages is also flawed because the effect is a gain or loss merely as a result of obtaining control. We believe that such a difference due to remeasurement at each stage should be booked to goodwill and then to income once goodwill falls below zero. We believe this approach is consistent with the methodology applied to bargain purchases in the proposed standard.

Question 12

We do not agree with the Board's concept of an "overpayment" in a business combination and further, the notion of an overpayment conflicts with the fair value measurement model as proposed in this standard. The consideration paid or purchase price is based on the earnings potential of the acquiree and is determined using various modeling techniques (i.e., discounted cash flow analysis, earnings multiples, etc.). These modeling techniques effectively calculate what a willing buyer will pay for an enterprise as a whole, ultimately its fair value. The consideration transferred for the acquirer's interest in the acquiree therefore is the definition of fair value.

Question 13

We agree that the acquirer should be given a time period to adjust acquisition date assumptions and one year is appropriate. Statement 154 was issued in 2005 and states that changes in accounting estimates should be accounted for on a prospective basis. We believe that measurement period adjustments are changes in accounting estimates and should be treated in accordance with Statement 154; such adjustments should not impact prior period comparative information.

Question 16

We do not agree with the Board's conclusion that an identifiable intangible asset can always be measured with sufficient reliability to be recognized separately from goodwill. We agree that there can be separately identifiable intangible assets, such as core deposit intangibles in the banking industry resulting from relationships that an entity has with its key customers. Depending on the specific circumstances involved with an intangible asset, the valuation can be extremely subjective and involve various assumptions, which can dilute measurement reliability. An identifiable intangible asset does not always generate cash flows for the combined entity and therefore may not provide any benefit to the users of the combined entity's financial statements.

Again, we appreciate the opportunity to comment on this proposed standard. Thank you for considering our views. If you would like to discuss this matter in further detail, please contact me at (205) 801-0765.

Sincerely,

/s/Alton E. Yother

Alton E. Yother
Executive Vice President
and Controller