



# LIBERTY BANK

FOR SAVINGS

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W. J. Smigiel  
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October 21, 2004

Mr. Robert Hers  
Chairman  
Financial Accounting Standards Board  
401 Merritt 7  
Norwalk, Connecticut 06856-5166

Letter of Comment No: 127  
File Reference: EITF03-1A

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

Re: EITF 03-1 "The Meaning of Other Than Temporary Impairment and its Application to Certain Investments"

Dear Messrs. Herz and Smith,

I am writing to comment on your recently issued EITF 03-1 "The Meaning of Other Than Temporary Impairment and Its' Application to Certain Investments" ("EITF 03-1"). I am the Chief Financial Officer of Liberty Bank. We are an \$800 million mutual savings bank. Over 65 per cent of our assets are invested in securities subject to this issue.

Because of this, we are very apprehensive about the potential negative ramifications of EITF 03-1. We believe it is flawed beyond repair and should be rescinded. Examples of our concerns are as follows:

- reported financial statements that do not accurately reflect the results of our business activities (earnings volatility, asset carrying values, capital levels, risk profile, etc.);
- as a result of the above, very real Sarbanes-Oxley related concerns associated with required signatures by senior Bank officers on financial statements that might be "technically correct" from an accounting perspective, yet materially misleading as to the true financial performance and risk profile of our Bank. While we are not a public company, it appears that FDICIA regulations will include provisions of Sarbanes-Oxley for banks of our size;
- ability to prudently manage risks, such as liquidity and interest rate sensitivity;
- a systemic lowering of banking industry earnings;
- while we have strong capital levels, these changes would inappropriately reduce regulatory capital levels and constrain the banking industry's ability to support economic growth (especially for community Banks); and



decreased availability and/or higher cost of raising capital.

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## **Recommendations**

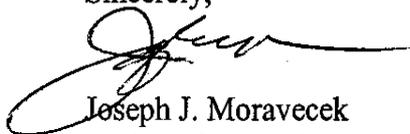
Our recommendation, as note above, is to rescind EITF-03-1. If that fails, you should at least clarify FASB 115 by excluding other than temporary impairment accounting from situations where there have been market value declines due solely to interest rate related changes; unless an entity's actions speak clearly to exception treatment. For example, in situations where there is a definitive plan for sale (voluntary or otherwise), Banks should record a charge at the time of determination of the plan and not wait for the transaction to occur. Similarly, if there was an "egregious" pattern of selling that would seem to indicate that a portion or all of a portfolio was misclassified as available for sale rather than trading.

If FASB moves forward with EITF - 03-1 and we highly recommend that you do not, then at the very least it should address clearly with pertinent examples the following issues:

- Enable sales to be conducted for documented strategies related to prudent risk management such as interest rate sensitivity and liquidity management.
- Provide a "bright-line" test for minor impairment (at least 5%, and preferably more) whereby impairment would be assumed to be temporary without requiring further analysis/documentation. Requiring formal analysis/documentation for every security with an unrealized loss would be an extreme burden.
- For pre-payable/callable premium securities with book prices above the "bright-line" test, provide concrete examples of typical securities and how they would be accounted for under the "new rule". For example, premium mortgage-backed securities (MBS) and collateralized mortgage obligations (CMO), callable bonds priced at premiums and amortized to call date, long-term municipal bonds, premium commercial MBS and other types of premium bonds with yield maintenance agreements and/or prepayment penalties.
- Allow rate related impairments to be recovered up to amortized cost as is done for mortgage servicing rights. Why create a new "permanent" cost basis that implies a low probability of recovery for a financial instrument whose value changes daily and is expected to increase with business cycles (when rates decline) and/or as time passes (the security moves closer to maturity)?
- Provide tangible guidance on what constitutes a pattern of selling (e.g. relative level of sales either in # of transactions or \$ volume; time period over which activity analyzed, etc.). Interpretations from the accounting profession have varied greatly.

Thank you for taking the time to consider Liberty Bank's comments regarding the very critical issues associated with EITF 03-1 and the related ramifications for my bank specifically, and for the banking industry in general.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Moravec', with a large, sweeping flourish extending to the right.

Joseph J. Moravec  
Senior Vice President and Treasurer