

From:
Sent:
To:
Subject:

Letter of Comment No: 118
File Reference: EITF03-1A

Thanks,
Larry

-----Original Message-----

From: Joseph Sutaris [mailto:sutarije@wilberbank.com]
Sent: Friday, October 29, 2004 2:27 PM
To: Larry Smith; Director - FASB
Subject: Comments on EITF 03-01

October 29, 2004

Dear Mr. Smith and Mr. Herz:

Wilber National Bank is a mid-size community bank located in the rural communities of central New York. We have total total assets of approximately \$735 million and maintain an investment securities portfolio of approximately \$310 million, of which \$246 million or 80% is in Available for Sale. Our bank has been an independent and strong performing community bank for over 130 years. We have a strong ties to our community and serve as our home county's primary financial intermediary. Over the last several years, there has been a pronounced shift in priorities within our organization. We used to spend time each day trying to figure out new and better ways to serve our primary stakeholders, namely our customers, our shareholders, our employees and our communities, while managing the risks of our business. Unfortunately, the focus has shifted in recent years to trying to comply with the latest regulation, accounting rule or regulatory reporting requirement, i.e, SOX 404, Corporate Governance, SEC Form 8-K changes, Patriot Act, FACT Act, OFAC, CIP. EITF 03-01 is just the latest in a string of rule changes (or proposed rule changes / clarifications) that make it more difficult for a bank like ours to operate and maintain our profitability. I don't make these comments just to whine, but rather to advise you that from experience, that changes in rules and regulations (although generally grounded in sound principles and logic) often have unintended consequences.

I'll admit that I have not read EITF 03-01. Rather I have relied on various comments and interpretations I have received from advisors, brokers and public accounting firms. Based on my understanding of EITF 03-01, I see one major flaw and perhaps two unintended consequences of the rule.

The major flaw, in my opinion, seems to be in applying the rule to determine the "intent" of the holder of an AFS security. In our bank, we have an Asset / Liability Committee comprised of seven senior managers. At our meetings, each member of the committee expresses his / her view on various asset and liability issues. We then build consensus and take the actions we feel are necessary to manage risk, increase earnings or serve our customers. From week to week, views change based on new circumstances facing the bank. Often times we will have a meeting and agree to raise deposit rates, only to decide to decrease deposit rates at the following meeting because market factors have changed. We are seven people who all think and process information differently. My point is that although our bank generally has the ability to hold AFS securities until maturity (given our strong liquidity), we generally have no clear intention with those securities from week to week. Market variables change so quickly. I believe trying to determine "intent" is an exercise subject to varied interpretation, which will result in inconsistent application in the field.

I also see two unintended consequences to EITF 03-01 if imposed in its current form. First, I believe you would see a shift in securities from AFS to HTM. Although this may

stabilize earnings and book equity, it will constrain liquidity. I don't believe this is a good idea, particularly because I believe core deposits are becoming more and more difficult to attract and retain in our industry. Deposits have been the banking industry's primary source of liquidity for the last 150 years. Second, if EITF 03-01 is passed in its current form, I believe it creates a new market for Wall Street, "EITF 03-01 bond swaps." If Bank A has an impaired municipal bond with a 4% coupon and a 7-year maturity and Bank B has a similar bond, will they swap the bonds at a premium to the impaired value and record a gain on sale? I don't even know if EITF 03-01 addresses this type of practice, but if it doesn't, it should.

Please excuse the informality of my comments on EITF 03-01, but I am extremely busy trying to meet the other demands of my job. I just thought this issue was too important to let pass.

I am confident that FASB is comprised of very bright and rational people with more wisdom and expertise than me, so I trust you will take these comments along with the others and arrive at a practical and logical conclusion on this issue. Thank you in advance for your time on this matter.

Please feel free to call me, if you have any questions, comments or advice. My telephone number is 607 433-4184.

Sincerely,

Joseph E. Sutaris
Senior Vice President & CFO
Wilber National Bank