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October 27, 2004

Mr. Lawrence Smith Director and Chairman of the Emerging Issues' Financial Accounting Standards Board 401 Merritt 7 Norwalk, Connecticut 06856 Letter of Comment No: 94 File Reference: EITF03-1A

Re: Proposed FASB Staff Position, EITF Issue 03-1-a, Implementation Guidance for the Application of Paragraph 16 of EITF Issue No. 03-1, "The Meaning of Other-Than-Temporary Impairment and Its Application of Certain Investments"

Dear Mr. Smith:

Atlantic Bank of New York appreciates the opportunity to comment on the proposed Staff Position issued on September 15, 2004 by the Financial Accounting Standards Board (FSP 03-1-a). Atlantic Bank is a full service commercial bank with \$3.3 billion in assets that provides a wide range of financial services to small and mid-sized businesses. The bank operates 22 branch offices throughout the New York City Metropolitan area. Atlantic Bank is a member of the NBG Group (NYSE:NBG) which has more than \$69 billion in assets and operates in 18 countries.

The bank appreciates the fact that the FASB has delayed the effective date of the proposal in order to provide more time to consider the views of our industry and other interested parties on this very important matter. We believe that while the FASB Staff Position provided clarity on some of our concerns, the proposal as it currently stands has potential negative impacts, particularly in our ability to effectively manage liquidity and interest rate risk.

Historically, the bank has always considered the most effective method of managing these risks is by classifying all of its investments as available for sale. This has provided us with the greatest flexibility since we have sold securities in response to changes in market interest rates, prepayment risk and liquidity needs. We believe it was the intent of SFAS No.115 "Accounting for Certain Investments in Debt and Equity Securities" to allow this flexibility by establishing the Available for Sale (AFS) category. Recent interpretations of the proposal as it concerns "other than temporary impairment" seems to put an undue focus solely on the "intent" to hold a security rather than all of the facts and circumstances concerning a particular security. We believe that the impairment model should emphasize an institutions "ability" to hold rather than "intent." It is our opinion that the "ability" to hold rather than the "intent" to hold is more in spirit with the meaning of an AFS portfolio. It is our opinion that the mitigating factors in the proposal that would not necessarily call into question the investor's intent and ability to hold securities such as unexpected and significant changes in liquidity needs, and unexpected and significant increases in interest rates do not replace the ability that we have under current GAAP



to effectively manage interest rate risk. There are also more strategic issues involved. If the bank were to do an acquisition and sell securities to raise cash would this "taint" the rest of the portfolio or would this action be justified as an unexpected and significant change in liquidity needs?

We are also concerned that the impairment model in the proposal places an inappropriate emphasis on an increase in interest rates as a cause of other than temporary impairment. Market value fluctuations due to interest rate movements should not be the only factor to consider for debt security impairment. Other circumstances such as credit rating, interest payment history and length of time that the investment has been in the portfolio should also be considered. While it is our opinion, that facts and circumstances surrounding a particular security should be the main determinant of impairment; we also believe that a reasonable safe harbor is appropriate for changes in value as result of interest rate or spread movements for securities held in AFS. The safe harbor needs to be sufficiently broad, for example at least over 10%, to take into account the volatility of interest rate shifts. In this market environment, values can decrease and recover quickly. A reasonable safe harbor will alleviate the increased income and capital volatility that will arise from shifts in rates, particularly in the short term. A reasonable safe harbor will also help mitigate the record keeping burden, system modifications and additional labor necessary for documentation that could impact smaller institutions.

In conclusion, we appreciate the effort on the part of FASB to resolve the many issues revolving this matter. However, we believe that the proposal as currently constituted impedes our ability to manage our investment portfolio in a prudent manner. We need the flexibility to sell securities classified as AFS without the risk of tainting other securities in the portfolio because of movement in interest rates. The accounting risk of a write down should not hinder appropriate decisions regarding our ability to sell securities as part of our overall interest rate risk strategies.

Again, we appreciate the opportunity to comment on this proposal. Thank you for considering our views. If you would like to discuss this letter in more detail, please contact Donald C. Fleming at 212-714-7294 or dfleming@abny.com.

Sincerely,

Thomas M. O'Brien

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