Deutsche Bank

Letter of Comment No: 137
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Accounting Policy Group 60 Wall Street, New York, NY 10005

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October 29, 2004

Mr. Lawrence Smith
Director-Technical Application and Implementation Activities
Financial Accounting Standards Board
401 Merritt 7
Norwalk, Connecticut 06856-5116

Re: Proposed FASB Staff Position No. 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 to Certain Investments"

Dear Mr. Smith:

Deutsche Bank (DB) appreciates the opportunity to comment on the Proposed FASB Staff Position No. EITF Issue 03-1-a (FSP).

We appreciate the Board's efforts to address the concerns of financial statement users and issue guidance intended to reduce ambiguity and promote consistent application of accounting principles. However, we are unsure as to why the topic of other-than-temporary impairment warrants additional guidance, particularly for debt securities. We believe that existing accounting standards, such as the SEC SAB 59 and EITF Topic No. D-44 (D-44), already provide sufficient guidance for financial statement preparers to determine whether an other-than-temporary impairment exists in their specific cases and there is no need for the Board to provide additional implementation guidance in EITF Issue No. 03-1 (EITF 03-1) in its current form.

SAB 59 states that the intent and ability of the holder to retain its investment in the issuer for a period of time sufficient to allow for any anticipated recovery in market value is an example of the factors that indicate that a decline is other-than-temporary. There are numerous factors to be considered in such an evaluation and their relative significance will vary from case to case. In D-44, the FASB staff indicated that when an entity has decided to sell an available-for-sale security whose fair value is less than its cost and the entity does not expect the fair value of the security to recover prior to the expected time of sale, a write-down for other-than-temporary impairment should be recognized in the period in which the decision to sell is made. The decline in the security's value may be due to an increase in market interest rates, a deterioration in the issuer's creditworthiness or a change in foreign exchange rates. D-44 further states that such a decision to sell is only one of the circumstances that needs to be considered.

From the above existing requirements, intent and ability to hold for a time period sufficient to allow for any anticipated recovery and the decision to sell are some of the factors to consider in determining whether a decline in value is other-than-temporary. However, the analysis must consider all related facts and circumstances. We believe that any guidance included in EITF 03-1 should be a consolidation of these general principles and supplemented by the disclosure requirements currently contained in EITF 03-1. We believe that these general principles are sufficient guidance for financial statement preparers to determine any other-than-temporary impairments. Any other specific requirements, such as those contained in the proposed FSP, would run counter to the concept of principles based accounting and impose operational burdens on entities that would not create corresponding benefits in improved financial reporting.

If, however, the FASB decides to continue with this guidance, below are our comments on the proposed FSP.

Minor Impairments

We agree that minor impairments can be considered temporary and would not need an assertion about the ability and intent to hold an investment until a forecasted recovery. However, we do not support adopting a numerical threshold or a "bright line" to define minor. Whether an other-than-temporary impairment loss is more than minor and requires recognition in earnings should be based on the judgment of the individual preparers based on their analysis of their specific facts and circumstances and not on a purely mechanical calculation. We also agree with the Board members who support expanding the notion of "minor impairments" to all investments rather than only to impaired debt securities due to interest rate and/or sector spread increases.

Change in Ability and Intent

We believe that the proposed FSP's requirement regarding an assertion as to ability and intent to hold to a forecasted recovery establishes a fourth category of securities that are restricted as to sale and effectively held at LOCOM. We do not believe that this is in accordance with FAS 115. FAS 115 defines available-for-sale securities as those not classified as trading nor as held-to-maturity, which we believe does not unduly restrict the sale of available-for-sale securities.

The proposed FSP lists circumstances for when a change in ability or intent would not necessarily call into question the investor's ability or intent to hold other securities to recovery. The proposed FSP should make clear that these circumstances are not all inclusive. In addition, the list of circumstances should also include a broader category to encompass changes necessary to achieve the objectives of an entity in entering into a business combination or a reorganization as well as its overall balance sheet management objectives.

Furthermore, an entity may manage their available-for-sale securities by segregating them in various different portfolios in different legal entities or business segments and with different objectives. Depending on the circumstances, a sale of one particular type of security in one portfolio should not "taint" the same security in other portfolios or other types of securities in the available-for-sale account. In addition, a de minimis volume of sales of securities should not be evaluated based upon an absolute number of sales, but rather in relation to the size of an investor's portfolios as well as the investor's pattern of selling available-for-sale securities.

Application of SOP 03-3

EITF 03-1 requires that the investor apply the provisions of SOP 03-3 in determining income in periods subsequent to the recognition of an other-than-temporary impairment loss. We are concerned that the scope of SOP 03-3 did not include this situation and, therefore, not all of the ramifications of applying SOP 03-3 to this situation have been deliberated. This requirement will cause additional implementation burdens on financial statement preparers relating to both SOP 03-3 and EITF 03-1. We, therefore, urge the Board to reconsider this requirement.

Convergence with International Standards

We are concerned that EITF 03-1 as well as the proposed FSP would represent a departure from international standards. Under IAS 39, the criterion for impairment is whether there is objective evidence that a security is impaired and a decline in the fair value of a financial asset is not necessarily evidence of impairment. A decline in the fair value of an investment in a debt instrument that results from an increase in the risk-free interest rate is cited as an example.

Convergence with international standards is critical as increasingly more companies will be required to file financial statements under both US and international accounting standards in the near future. We strongly urge the Board to consider achieving full convergence in their deliberations relating to this issue.

In conclusion, we believe that EITF 03-1 and the proposed FSP should not be issued in their current forms. Rather, we urge the Board to issue guidance that incorporates the existing requirements with regard to other-than-temporary impairments together with the disclosure requirements currently contained in EITF 03-1. We believe that together these would constitute sufficient guidance for financial statement preparers to make a determination as to whether an other-than-temporary impairment loss should be recognized.

We hope that these comments are useful for your deliberations. If you have any questions regarding this letter, please call me (212-250-2660) or Mercedes Caes (212-250-1773), or send an electronic message to: accounting.policygroup@db.com.

Very truly yours, Peggy H. Capomaggi Managing Director – Accounting Policy

cc: Anthony Dilorio - Group Controller