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October 18, 2004

Mr. Lawrence W. Smith, Chairman EITF  
FASB  
PO Box 5116  
Norwalk, CT 06856-5116

Letter of Comment No: 26  
File Reference: EITF03-1A

**Re: Proposed FSP EITF Issue 03-1-a, which provides guidance for the application of paragraph 16 of EITF Issue 03-1 to debt securities that are impaired because of interest rate and/or sector spread increases.**

Dear Mr. Lawrence W. Smith,

**Implementing 3-1 as currently interpreted will certainly cause increased income and capital volatility, reduce or severely discourage sound long-term asset management and will directly impact financial institutions (FI) disproportionately based on individual investment asset concentrations.**

**The new consideration of treating negative market value (MV) changes due to changes in interest rates as other than temporary impairment (OTTI) would force FI to recognize the lower value change by lowering income and capital. Because the change is an OTTI, the FI cannot increase income and capital if in the future rates decline and MV increases. As few as 2 or 3 sales at losses could indicate the FI did not have the "intent and ability" to hold the investments to their respective maturities. All AFS investments valued at less than book value would be subject to the mark to market rate described above.**

**Most regulations or standards are equitable and each FI is treated fairly, but not in this case. Consider FI which have low loan demand of perhaps 40% loan-to-deposit ratio. Approximately 50% to 55% of these FI assets are in investments and subject to the above OTTI definitions. Other FI may have 90% L-T-D and only 8% in investments subject to the new OTTI definitions. Issue 03-1 would, by accounting standards, determine the low-loan FI is considerably more risky than the high-loan FI by forcing the low-loan FI to mark 50% of its assets to lower of cost or market, while the high-loan FI would mark only 8% of its assets to market. (The low-loan FI could have all investments in Treasury Notes and still be forced to recognize all losses as OTTI if certain trigger points are met.)**

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**How can this be interpreted as anything but biased against a specific kind of asset class (investments)? All other assets and liabilities are excluded from mark to market, but investments are not. This standard could easily force FI to make decisions based on an accounting treatment, but not necessarily on the best long-term interest of the FI. It could also force an operationally profitable FI out of business for lack of capital caused by marking investments to market.**

**If these restrictive applications stand, it will completely change how banks manage their investment securities, depriving them of the ability to use this component of their balance sheet to manage their asset/liability and liquidity positions. If this draconian application had existed in 2000, banks would have faced two equally unacceptable alternatives – sell a few securities to fund loan growth and face other-than-temporary impairment of the entire investment portfolio or turn down a quality loan. Both alternatives would have been contrary to good business practices.**

**I request an immediate postponement of the application of EITF 03-1, and we request that a conference be convened including representatives of the banking industry, banking regulators, FASB, the SEC, and others to discuss guidance which may accomplish the aim of EITF 03-1 without problems which are now evident.**

**Thank you,**

**Johnny McCowan  
Executive Vice President and CFO  
American Bank of Commerce  
Lubbock, Texas**

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