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Mr. Lawrence W. Smith  
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Financial Accounting Standards Board  
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Letter of Comment No: 3  
File Reference: FSPFAS129A

**Proposed FASB Staff Position FAS 129-a – “Disclosure Requirements under FASB Statement No. 129, *Disclosure of Information about Capital Structure, Relating to Contingently Convertible Financial Instruments*”**

Dear Mr. Smith:

We appreciate the opportunity to comment on the referenced proposed FASB Staff Position. A number of issues arose in practice during the past few years related to the application of FASB Statement No. 128, *Earnings per Share*. While the EITF, the FASB staff and the SEC staff promptly addressed most of those issues, we continue to be concerned that the Statement 128 EPS model is not sufficiently robust to address many of today’s complex financial instruments.

While we understand that addressing each new issue related to Statement 128 on an individual basis may be a short-term solution, we support a Board project to reconsider the current EPS model in Statement 128 with the ultimate goal of replacing that model with one that specifically sets out principles related to the EPS presentation for the effects of complex and non-complex financial instruments.

Notwithstanding these concerns, we agree with the FASB staff’s position in the proposed FSP that the disclosure requirements of Statement 129 apply to all contingently convertible financial instruments, including those containing contingent conversion requirements that have not been met. We have the following general comments:

1. The guidance in paragraph 32 of Statement 128 (about contingently issuable shares that depend on the market price at a future date) currently is applied to contingently convertible instruments that otherwise would be included in diluted EPS by application of the if-converted method. Paragraph 2 of the proposed FSP states, “the disclosure requirements of Statement 129 apply to all contingently convertible financial instruments, *including those containing contingent conversion requirements that have not been met and are not otherwise required to be included in the*

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*computation of diluted EPS*" [emphasis added]. This wording appears to support accounting for contingently convertible instruments pursuant to the provisions in paragraphs 30-35 of Statement 128 before application of the if-converted method in the diluted EPS calculation. If this is the FASB staff's intent, we believe that intent should be explicitly stated.

2. In addition to the disclosures proposed in paragraph 3 of the proposed FSP, we suggest the staff add the following to the FSP:
  - a. Other events or changes in circumstances that could trigger conversion (e.g., bond is called for redemption, downgrade in credit rating, change in control, or bond trading price condition occurs).
  - b. The period for which the instruments may be converted if the contingency is met (e.g., the following quarter only or any time through maturity).
  - c. The manner of settlement upon conversion and any alternative settlement methods (i.e., cash, stock, or a combination).
3. Paragraph 5 of the proposed FSP states, "To the extent derivative transactions were entered into in connection with the issuance of the contingently convertible financial instrument, the terms of those derivative transactions (including settlement), how those transactions relate to the contingently convertible instrument, and the number of shares underlying the derivatives also should be disclosed." We believe this guidance is intended to require disclosure of derivatives entered into at issuance or during the life of the contingently convertible financial instrument. We are concerned that the current wording in the proposed FSP could be misinterpreted to suggest that the conversion option in a contingently convertible instrument can be designated in a hedging relationship under FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities*. The proposed FSP should be clarified to indicate the intent of the guidance.

\* \* \* \* \*

If you have questions about our comments or wish further to discuss any of the matters addressed herein, please contact John Guinan at (212) 909-5449 or Patrick Garguilo at (212) 909-5947.

Very truly yours,

**KPMG LLP**