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## Deloitte & Touche

October 31, 2003

Mr. Lawrence W. Smith Director, TA&I – FSP Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116

Proposed FASB Staff Position No. FIN 45-a, Whether FASB Interpretation No. 45 (FIN 45), Guarantor's Accounting and Disclosure Requirements for Guarantees, including Indirect Guarantees, including Indirect Guarantees of Indebtedness of Others, Provides Support for Subsequently Accounting for a Guarantor's Liability at Fair Value.

## Dear Mr. Smith:

We agree with the FASB staff's answer in the above referenced document (the "Proposed FSP"), that paragraph 12 of FIN 45 is not a basis for justifying the use of fair value in accounting for the guarantor's liability subsequent to issuance of a guarantee. The Proposed FSP correctly points out that FIN 45 described three methods for the subsequent accounting of guarantees only as a reference and did not provide guidance on when use of these or any other methods would be appropriate.

However, issuance of the Proposed FSP in final form will not alleviate the fact that, except for guarantees that are derivatives within the scope of FASB Statement No. 133, Accounting for Derivative Instruments and Hedging Activities, preparers and auditors are struggling with determining the appropriate accounting for guarantees subsequent to issuance. For example, many guarantees may be viewed as written options. The SEC staff has on previous occasions espoused the view that certain written options should be

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marked to fair value with changes in fair value recognized in earnings<sup>1</sup>. The view expressed by the SEC staff may support or require the use by registrants of fair value as the subsequent measurement basis for a guarantee. Thus, there is confusion as to which guarantees in the form of written options the SEC staff's views would apply.

In addition, because of the lack of authoritative guidance on the subsequent accounting for guarantees, preparers and auditors often have difficulty in determining which of the other methods of subsequent accounting for guarantees (i.e., (a) extinguishment only upon expiration or settlement or (b) systematic and rational amortization) is most appropriate when use of fair value is not appropriate. We believe that perhaps the FASB's Emerging Issues Task Force could be a forum for providing a framework useful to preparers and auditors for determining the appropriate method of accounting for a guarantee subsequent to issuance.

Should you have any questions regarding our response, please contact Bob Uhl at (203) 761-3705 or Jim Johnson at (203) 761-3709.

Yours truly,

Deloitte & Touche LLP

cc: Mr. Donald Nicolaisen, Chief Accountant, Securities and Exchange Commission

<sup>&</sup>lt;sup>1</sup> See, for example, EITF 00-6, Accounting for Freestanding Derivative Financial Instruments Indexed to, and Potentially Settled in, the Stock of a Consolidated Subsidiary, EITF 95-11, Accounting for Derivative Instruments Containing both a Written Option-Based Component and a Forward-Based Component, and Specches at the AICPA Annual National Conference on Current SEC Developments (December 1999, Pascal Desroches, Professional Accounting Fellow; December 1998, Pascal Desroches, Professional Accounting Fellow; December 1996, Russell B. Mallet III, Professional Accounting Fellow; February 1996, Russell B. Mallet III, Professional Accounting Fellow;