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Dallas, Texas 75218

Letter of Comment No: 21  
File Reference: FSPFAS106B

SENT VIA EMAIL

April 14, 2004

Director of Major Projects and Technical Activities  
Financial Accounting Standards Board  
401 Merritt 7  
P. O. Box 5116  
Norwalk, CT 06856-5116

Re: Proposed FASB Staff Position No. 106-b - *Accounting and Disclosure Requirements Related to the Medicare Prescription Drug, Improvement and modernization Act of 2003*

I am writing to provide my comments on the above referenced Proposed FASB Staff Position.

1. The Staff acknowledges in paragraph 8 that detailed regulations necessary to implement the Act have not been issued, including those that would specify the manner in which actuarial equivalency must be determined and the evidence necessary to demonstrate actuarial equivalency. Consequently, I am unclear as to how any plan sponsor can reliably estimate the effect of the prescription drug subsidy on a plan's APBO and net periodic postretirement benefit cost until such regulations are finalized. Certain actuarial firms have already indicated to the Board in their comments on the Proposed FASB Staff Position that initial estimates of the effect of the subsidy could be significantly adjusted once such regulations are finalized. See, for example, the comment letter or Hewitt Associates. While paragraph 40 of SFAS No. 106 requires presently enacted changes in the law to be considered in current-period measurements, that paragraph also states that (i) enacted changes in law must affect the future level of benefit coverage before they should be considered in current-period measurements and (ii) future changes in laws concerning medical costs covered by governmental programs shall not be anticipated. Without the finalization of the regulations necessary to implement the drug subsidy, there is no way to reliably estimate how the drug subsidy might affect future levels of benefit coverage. And absent the finalization of the implementing regulations, the law itself has no substance. Therefore, I believe the FASB Staff Position should prohibit a plan sponsor from reflecting the effect of the drug subsidy in its measurement of net periodic postretirement cost and the APBO until the implementing regulations are finalized, and that such transition requirements are consistent with the current requirement of SFAS No. 106.
2. Once the implementing regulations are finalized, paragraph 73 should be followed to determine if remeasurement should occur at the date actuarial equivalency and eligibility to receive the subsidy are determined, or whether those effects may be incorporated at the next regularly scheduled measurement date.
3. Appendix E of SFAS No. 106 defines an actuarial gain or loss as a change in the value of either the APBO or plan assets resulting from experience different from that assumed or from a change in an actuarial assumption, or the consequence of a decision to temporarily

deviate from the substantive plan. The existence of and eligibility for the drug subsidy under the Act is not an actuarial gain or loss under that definition, in that it represents a new fact pattern that did not exist when prior actuarial estimates were made. Conceptually, the drug subsidy is more akin to a plan amendment than an actuarial gain or loss. Accordingly, the initial accounting for the effect of the drug subsidy should be accounted for as a plan amendment under paragraphs 50 to 54 of SFAS No. 106. Once the drug subsidy has been initially accounted for, any differences between those assumptions related to the subsidy and actual experience should, of course, be accounted for as an actuarial gain or loss.

4. The income tax accounting requirements of paragraph 18 of the Proposed FASB Staff Position are complex and burdensome, and would require keeping two parallel sets of calculations. In addition, the guidance is not complete and ignores certain specified complexities that would have to be addressed in practice. The Staff should provide more detailed guidance on how to account for the income tax effects of the subsidy. The Staff should have time to provide such guidance before the implementing regulations are finalized.

Thank you for considering these comments.

Sincerely,

Greg Swalwell