

December 30, 2008

Mr. Russell Golden Technical Director Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116



LETTER OF COMMENT NO. 229

RE: File Reference: Proposed FSP EITF 99-20-a

Dear Mr. Golden:

The Bank of New York Mellon, Inc. ("The Company"), a global financial institution with \$260 billion of assets, appreciates the opportunity to comment on the Exposure Draft of the proposed FASB FSP EITF 99-20-a, Amendments to the Impairment and Interest Income Measurement Guidance of EITF Issue No. 99-20 (the "Exposure Draft").

We applaud the FASB's efforts to begin to address certain accounting issues arising from the global financial crisis. However, we believe that the Exposure Draft published by the FASB has not sufficiently addressed the immediate concerns expressed by users and preparers at the joint IASB/FASB roundtables conducted recently in London, Norwalk and Tokyo.

We acknowledge that by aligning the impairment trigger for debt securities subject to EITF 99-20 Recognition of Interest Income and Impairment on Purchased Beneficial Interests That Continue to Be Held by a Transferor in Securitized Assets ("EITF 99-20") with FASB Statement 115, Accounting for Certain Investments in Debt and Equity Securities ("FAS 115"), fewer debt securities will be prematurely impaired. However, the Exposure Draft does not address the fundamental concern expressed at the roundtables that once it is determined it is probable a debt security will not pay off in accordance with its contractual terms, it is still currently required to be written down to its current market value or liquidation value, not the impaired value based on uncollectible cash flows. We were surprised that the FASB chose only to address with urgency the narrow impairment triggering issues presented in the EITF 99-20 accounting model without also addressing the more obvious (and immediate) measurement issues presented by the FAS 115, impairment model.

We believe that when investment securities are not expected to make required contractual payments, the securities should be impaired based on the expected loss of cash flows due to credit losses. The model used in the United States for other financial assets impairments would be useful in establishing impairments on debt securities. We do not believe that a fair value/liquidation model is relevant for assets for which an enterprise has no current intention of liquidating. The core accounting concept that an enterprise is a going concern is

contradicted by the requirements in FAS 115 that require writedowns of impaired investment securities to what are often deeply discounted "fair values" arising from trades by distressed sellers in illiquid markets. We believe this accounting is contributing to the global financial crisis by causing reported earnings to be artificially lowered.

## Measurement of Impairment of Debt Securities - Urgent Change to Accounting

We have participated in the Clearing House Association's comment letter and believe that urgent changes to FASB Staff Position FAS 115-1 and FAS 124-1, The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments ("FSP 115-1) are necessary to better align the impairment measurement of debt securities with that of many banks we compete with outside of the United States that have adopted International Financial Reporting Standards.

The issue of measurement of impairment of debt securities has been visible since the summer, and has been clearly articulated in numerous comment letters, not the least of which is the letter from the Center for Audit Quality over 5 weeks ago. We believe there is still time for the FASB to take action and make these proposed amendments to FSP 115-1 with suitable due process before the banks in the United States release their earnings for the quarter ending on December 31, 2008, however there should be no further delay.

Both the FASB and the IASB have acknowledged that there is a need to address the accounting for impairment in debt securities and each board is indicating that this will be addressed, only not now. Why the delay? Banks are recording losses that are not representative of the true economics of the debt securities they hold for the long term. Impairment charges well above the the amount that would be required under the FASB Statement 114 model, Accounting by Creditors for Impairment of a Loan are being forced through banks' income statements.

The gains from the sale or accretion on these debt securities that have been written down excessively during this fourth quarter (and possibly also subsequent quarters in 2009) in a year or two will be unrepresentative of the true income of many institutions. Accounting will have failed the shareholders in each reporting period because earnings will not have presented a true and fair view.

## Other Than Temporary Impairment Triggers

Debt securities may be triggered for an impairment measurement in more than one way. We agree with the FASB that there is an urgent need for simplification in the way that impairment measurement is triggered and the changes proposed to EITF 99-20 are a reasonable, yet less consequential, step to take.

We believe that EITF 99-20 should be superceded in its entirety and that its income recognition requirements are sufficiently addressed by Statement 115 and it should not be necessary to change the scope of SOP 03-3, Accounting for Certain Loans or Debt Securities Acquired in a Transfer.

## Conclusion

We urge the FASB to take immediate action to align the measurement of impairment losses on debt securities with the incurred loss models used for loans and receivables. All that is required are some minor changes to paragraphs 13 and 15 of FSP 115-1 (as described in the Clearing House Letter), along with the elimination of EITF 99-20. In achieving a consistent model for impairment recognition across all debt securities, loans and receivables this would achieve, not only a reduction in accounting complexity, but would also achieve financial reporting that is consistent, reliable, relevant and timely to the users of financial reports. We see this as a timely opportunity for the FASB to make improvements to accounting that can ensure the presentation of a true and fair view of bank's results of operations.

If you have any questions or are in need of any further information, please contact me at (212) 635-7080.

Sincerely,

John Park, Managing Director

Controller