

LETTER OF COMMENT NO. 209

From: ekottke@gmail.com [mailto:ekottke@gmail.com] On Behalf Of Eric Kottke

Sent: Tuesday, March 31, 2009 7:37 AM

To: Robert Herz

Subject: proposal to change 157

YES retain statement 157

NO. This FSP will not meet the project objective.

This proposal misrepresents true valuation. It seems as if the FASB is under "distress" to change the FAS 157 to conceal the true valuation of an asset at the bequest of the holders of poor performing assets. This proposal clearly favors asset holders who refuse to sell or value their non-performing assets at lower valuations using the "distressed market" as their valuation argument. Markets are distressed for a reason and expected returns rise and fall as price discovery evolves. Just because a seller decides not to sell an asset or continue to hold an asset, does not guarantee the holder the asset will retain its value. A wide bid ask indicates a lack of marketability and requires a discount.

## Fair market value is the value a hypothetical reasonable buyer and seller can agree upon.

This proposal is being built around the unequal specifications of an UNREASONABLE seller. It conceals valuation, and undermines the credibility of the public financial reporting system. This proposal should consider asset valuation determinants REGARDLESS of market condition.

This proposal may undermine the entire scope of valuation and distort financial reporting even more resulting in greater damage to investors. Investors will purchase over-priced assets and firm valuations will be overvalued lacking the proper support of true valuation. This valuation and improper disclosure will result in significantly greater volatility and greater risk in the future market place. Will the FASB be required once again to change the standard to accommodate the sellers in the future? When prices rise too much will the FASB change the standard to accommodate the buyer?

The managers and/or holders of the assets of the corporation CANNOT be called upon to use their judgment to determine value; they are biased and lack objectivity. Should values be based on what buyers are willing and able to pay for the asset?

If value cannot be determined, an independent valuation expert should be commissioned by the independent auditors and the additional cost passed on to the client.

"Assets are only worth what they can be sold for. Just because the sellers and holders of the asset cannot get their asking price, does not entitle them to change the accounting rules to make it so."

## Respectfully submitted,

## Eric Kottke

----Original Message----

From: Eric Kottke [mailto:ekottke@kottketrading.com]

Sent: Thursday, March 12, 2009 01:15 PM Eastern Standard Time

To: Robert Herz

Cc: <u>lkottke@kottketrading.com</u>
Subject: Fair Market Value

Dear Mr Hertz,

as a market participant and capitalist i want to encourage you to maintain your independence and objectivity. fair market value is not complicated. it only becomes complicated when those who want to manipulate an outcome do not like what they see. the price a willing buyer and seller would agree upon is valid. "willing buyers and sellers i would define as those whom are BOTH willing and able to transact." and YES. to those who decide not to transact; YES the value of your asset will change accordingly, either UP or DOWN.

from the words of the great investor Gerald Loeb, "prices rise when an asset is hard to buy and easy to sell." why would the value rise? because there is a market for the asset and because the asset is difficult to acquire. "prices decline when an asset is easy to buy and hard to sell." why would the value decline? because there is a lack of a market of willing and able buyers at higher prices and the asset is easy to acquire because it is in such great supply.

my observation is that the accounting presentation of mark to market is an accounting effort to present "reality" of valuation. the reality is that there is no market for MBS, derivative etc assets buyers are only willing and able to purchase these assets at much lower prices. when there exists such a wide disparity between the buyer and seller a discount in price is warranted.

nevertheless, if congress wants to threaten you and force you to make a decision to distort "reality" then i will lose confidence in the value of the presentation of accounting assets and require more of a discount before buying. congress forcing itself upon you is taking away your freedom to act objectively. congress does not have the expertise and as a participant in the capital markets i cannot and will not trust the presented valuations to be true.

the LORD abhors dishonest scales, but accurate weights are his delight. Proverbs 11:1