



LETTER OF COMMENT NO. 15

October 15, 2007

Russell G. Golden
Director of Technical Application and Implementation Activities
FASB
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

File Reference: Proposed FSP APB 14-a

Dear Mr. Golden:

HBK Capital Management ("HBK") appreciates the opportunity to provide comments on proposed FASB Staff Position No. APB 14-a, "Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)." HBK is an investment management firm with over \$14 billion in equity capital under management. The funds we manage invest in a broad range of securities, including the convertible debt instruments that are the subject of this proposed FSP, and we are users of the financial statements prepared by convertible debt issuers whose accounting would be most impacted by this proposal. It is from these perspectives that we voice our strong disagreement with the proposed FSP.

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Impact on Issuer Accounting

We've identified significant inconsistencies and flaws in the Board's arguments for issuing the proposal. In paragraph B5 of the Basis for Conclusions, the Board points to the guidance in paragraph 18 of Opinion 14 that requires that convertible debt instruments not addressed in paragraph 12 of Opinion 14 be accounted for based on their substance. Later in paragraph B5 it states, "Some Board members believe that all financial instruments indexed to an entity's own shares, including convertible debt instruments, should be measured at fair value with changes in fair value reported in earnings." This fair value reporting is fundamentally different from the accounting in the proposed FSP. It is unclear to us how the accounting prescribed in this proposed FSP is based on the substance of the instrument and an improvement in reporting when Board members are split over the actual substance (and appropriate reporting) for these instruments in the first place. We also note that the Board has been considering the appropriate accounting for convertible debt instruments since the Discussion Memorandum it issued in 1990 and has had a project on its agenda to address these very issues since 1997 with no clear consensus on the appropriate approach. Further, the Board is preparing to issue a Preliminary Views in which it will solicit feedback on three different proposed approaches for accounting for instruments with features of liabilities and equity, such as the instruments addressed in the proposed FSP. Again, we do not understand how the Board is confident the approach prescribed in the FSP is an improvement in financial reporting when it has yet to come to agreement on even a broad framework for accounting for these and other similar instruments in its liabilities and equity project. We recommend that the Board defer consideration of this issue and,

instead, focus its resources on advancing Phase 2 of the liabilities and equity project so that a comprehensive and consistent framework can be established for all instruments with characteristics of liabilities and equity.

The Board's Notice to Recipients asks constituents whether readers agree with the method of separation proposed in the FSP. We believe the fact that multiple methods of separation exist that yield significantly different results for the liability and equity components¹ implies that separation does not adequately capture the economics of the instrument as a whole. The market does not view these instruments as simply a nonconvertible debt instrument with an embedded conversion option; if that were true, the separation approach should be irrelevant. The sum of values of the two components calculated separately would equal the value of the instrument as a whole. Again, this issue is present for all convertible debt instruments and is an issue the Board is wrestling with in its liabilities and equity project; the proposed guidance does not adequately resolve that issue.

We also find it counterintuitive that some Board members believe that fair value accounting is the proper accounting for convertible debt instruments, yet the proposed FSP would not even allow issuers to avail themselves of the fair value option under FAS 159. If the Board decides to move ahead with this proposed FSP, we would at least ask the Board to reconsider allowing the use of the fair value option for these instruments in their entirety. We note, too, that this change does not achieve convergence with IFRS in the accounting for these instruments. Although the separation methodology is consistent with that under IFRS, the entire liabilities and equity framework of the two regimes are substantially different; therefore, we do not see convergence as a compelling reason for this change either.

In addition, we disagree with the retrospective application proposed in paragraph 22. As users of financial statements, we note that our analysis would not be aided by the enhanced "comparability" among issuers of these instruments that must restate their financial statements to reflect the impact of this proposed FSP on periods prior to issuance (even if the instruments have been modified or extinguished prior to the issuance of this FSP). We will adjust our models to remove the impact of these changes on a go-forward basis and would likewise ignore any restated information presented to reflect the impact of these changes. We believe there will be significant preparer and informational cost to these restatements (in the form of market confusion and distortion of prior company performance metrics). Again, because of the fragmented and inconsistent guidance for similar instruments with characteristics of liabilities and equity, we believe the "comparability" brought about by full retrospective application for these instruments would be illusory.

¹ See June 29, 2007 research report published by Lehman Brothers Convertibles: Venu Krishna, Manoj Shivdasani, Brendan Lynch

Impact on Convertible Debt Market

We note the devastating effect the proposed FSP would have on the convertible debt market for issuers and investors alike. The Board is no doubt aware of the prevalence of these instruments in the marketplace and the significant negative net income and EPS impacts that the proposal will have for issuers. Despite the fact that nothing has changed economically for issuers, we believe that many investors will be confused by the changes in reporting for these instruments. The FSP results in the introduction of phantom interest expense as the "implied" discount is accreted over time, an understated liability for the convertible instrument, a deferred tax liability that is created by that understated liability and that will reverse itself over time through income, and an increase in equity that further deflates the issuer's reported leverage despite the additional debt it has just issued. All of these items will significantly distort key operating metrics (return on equity, debt/equity, EPS, interest coverage, etc.) that investors rely upon to judge operating performance. Thus analysts, assuming they even fully understand all of these changes, will have to wade through each of the aforementioned items, attempt to identify the various pieces, and reconstruct the balance sheet and income statement to get a better picture of issuer performance. Companies will avoid future issuances of these instruments, not for any underlying economic reasons, but because of the punitive reporting consequences and difficulty in communicating the impact of the instruments on its financial statements. We understand that much of the complexity in financial reporting over the recent years has been a result of the increased complexity of transactions; however, this proposal creates complexity for a relatively straightforward instrument.

If you have any questions on the above comments or wish to further discuss any of the matters herein, please contact Michael Nesta at 214-758-6316 or me at 214-758-6400.

Sincerely,



J. Baker Gentry
Managing Director
HBK Capital Management