



disclosing company in resolution of the claim or assessment could result in larger unfavorable outcomes negatively impacting current investors.

The disclosure requirements of the proposed statement call for significant forward-looking judgment in relation to maximum possible loss, the timing of resolution, and the factors impacting the ultimate outcome of the claim. The Board's reasoning that financial statement users would "prefer to have a highly uncertain estimate supplemented with a qualitative description than no quantification of a potential loss" contradicts our belief that financial statement users are most often investors who would prefer to have reasonable estimates of probable outcomes that do not weaken the disclosing company's ability to minimize its exposure. In addition, if the actual resolution of the claim differs materially from the highly uncertain estimates provided, these forward-looking disclosures would not be protected by the safe harbor provided by Congress and could result in additional litigation risk.

***Question 3*** – *Should an entity be required to provide disclosures about loss contingencies, regardless of the likelihood of loss, if the resolution of the contingencies is expected to occur within one year of the date of the financial statements and the loss contingencies could have a severe impact upon the operations of the entity? Why or why not?*

We believe that disclosures about claims with remote likelihood are of little interest or benefit to financial statement users and could be misleading or misinterpreted. This requirement seems to disregard the assessment of materiality, which considers both the likelihood and impact of the event. Companies will incur significant costs to disclose cases that are unfounded or frivolous and likely will be resolved favorably. These disclosures will dilute the impact of communication about significant and likely claims by making the disclosures cumbersome to the financial statement users. If the claim will be resolved within one year and will have a severe impact on the financial position of the disclosing company, we believe the disclosure requirements of SFAS No. 5 are sufficient. Again, we believe the disclosures required by the proposed Statement are likely to result in providing leverage to the disclosing company's adversaries.

***Questions 4 and 5*** – *Paragraph 10 of Statement 5 requires entities to "give an estimate of the possible loss or range of loss or state that such an estimate cannot be made." One of the financial statement users' most significant concerns about disclosures under Statement 5's requirements is that the disclosures rarely include quantitative information. Rather, entities often state that the possible loss cannot be estimated. The Board decided to require entities to disclose the amount of the claim or assessment against the entity, or if there is no claim or assessment amount, the entity's best estimate of the maximum possible exposure to loss. Additionally, entities would be permitted, but not required to disclose the possible loss or range of loss if they believe the amount of the claim or assessment is not representative of the entity's actual exposure.*

- a. Do you believe that this change would result in an improvement in the reporting of quantitative information about loss contingencies? Why or why not?*
- b. Do you believe that disclosing the possible loss or range of loss should be required, rather than optional, if an entity believes the amount of the claim or*

*assessment or its best estimate of the maximum possible exposure to loss is not representative of the entity's actual exposure? Why or why not?*

- c. *If you disagree with the proposed requirements, what quantitative disclosures do you believe would best fulfill users' needs for quantitative information and at the same time not reveal significant information that may be prejudicial to an entity's position in a dispute?*

*If a loss contingency does not have a specific claim amount, will an entity be able to provide a reliable estimate of the maximum exposure to loss that is meaningful to users? Why or why not?*

We strongly believe that the disclosure requirements of SFAS No. 5 Paragraph 10, if properly applied, are sufficient for current and future investors to determine the impact on the disclosing company's current and future financial results and cash flows. The reality in many situations is that the estimate of the maximum exposure or range of loss can not be reasonably estimated. While we all may want to believe the United States legal system is consistently fair, just, and predictable, quite often financial awards, especially in complex litigation, defy logic and are impossible to predict.

The requirement to disclose the known claim amount or the maximum exposure to loss may be misleading to users of the financial statements because cases are often resolved for much lower amounts. Additionally, claim amounts are often very arbitrary and purposely exaggerated by plaintiffs. Thus, financial statement preparers will be inclined to disclose the company's anticipated loss or range of loss to reduce negative investor reaction, despite the lack of sufficient information on which to base the estimate. As noted above, these forwarding looking statements could be harmful to the disclosing company for numerous reasons; including prejudicial impact to the current case and future litigation should the actual results differ significantly. Also, the disclosure of an estimate of the maximum exposure to loss could be used by plaintiff's attorneys as an admission of the amount that should be paid, making the information prejudicial.

The proposed Statement seems to assume that claim amounts are publicly available in the majority of cases and estimates of the maximum exposure to loss would be limited. However, many cases do not contain a stated amount and estimates would be required regardless of the availability of sufficient information to formulate a reasonable estimate. While disclosing companies may, through the course, of defending the claim gather information to determine the maximum exposure to loss, as noted above, this amount may be misleading to financial statement users as it will likely be much larger than the actual loss.

**Question 6** *Financial statement users suggested that the Board require disclosure of settlement offers made between counterparties in a dispute. The Board decided not to require that disclosure because often those offers expire quickly and may not reflect the status of negotiations only a short time later. Should the disclosure of the amount of settlement offers made by either party be required? Why or why not?*

We agree with the Board's decision to not require the disclosure of settlement offers for the reasons given. In addition, we believe that settlement offers, particularly those made by the plaintiff, are not beneficial to the financial statement users as they may not fairly represent the possible loss.

***Question 7** - Will the tabular reconciliation of recognized loss contingencies, provided on an aggregated basis, provide useful information about loss contingencies for assessing future cash flows and understanding changes in the amounts recognized in the financial statements? Why or why not?*

While the tabular reconciliation of the recognized loss contingencies will provide useful information in certain limited circumstances, the classified balance sheet and disclosure requirements of SFAS No. 5 are sufficient for the vast majority of situations. Therefore, to require all preparers of financial statements to include a tabular reconciliation results in significant additional costs, incurred to accumulate the information necessary to prepare the proposed disclosures, with minimal added benefit to the financial statement user.

***Question 8** - This proposed Statement includes a limited exemption from disclosing prejudicial information. Do you agree that such an exemption should be provided? Why or why not?*

We strongly agree that the Statement should include an exemption from disclosing prejudicial information. As we believe most financial statement users are current investors, prejudicial information would harm investors more significantly than they would benefit from increased informational disclosures.

***Questions 9 and 10** - If you agree with providing a prejudicial exemption, do you agree with the two-step approach in paragraph 11? Why or why not? If not, what approach would you recommend and why?*

*The International Accounting Standards Board continues to deliberate changes to IAS 37, Provisions, Contingent Liabilities and Contingent Assets, but has not yet reconsidered the disclosure requirements. The existing disclosure requirements of IAS 37 include a prejudicial exemption with language indicating that the circumstances under which exemption may be exercised are expected to be extremely rare. This proposed Statement includes language indicating that the circumstances under which the prejudicial exemption may be exercised are expected to be rare (instead of extremely rare). Do you agree with the Board's decision and, if so, why? If not, what do you recommend as an alternative and why?*

We agree with the two-step process in paragraph 11. However, we do not agree that the prejudicial exemption should be exercised only in rare cases. The indication that such instances requiring exemption are rare and the unavoidable minimum qualitative disclosures make the exemption difficult to apply. We also believe the minimum qualitative disclosures required by the proposed statement run the risk of including prejudicial information. We recommend that Board exclude any judgment about the frequency of the exemption.

**Question 12** – Do you believe it is operational for entities to disclose all of the proposed requirements for interim and annual reporting periods? Should the tabular reconciliation be required only annually? Why or why not?

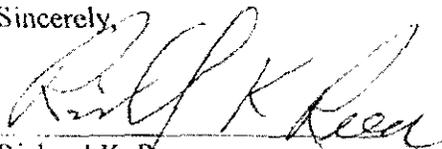
As the interim financial reporting requirements already in place (APB Opinion No. 28, Interim Financial Reporting and Regulation S-X, Article 10) result in adequate interim disclosures, we believe the disclosure requirements of the proposed Statement should only be required annually.

**Question 14** – Do you believe it is operational for entities to implement the proposed Statement in fiscal years ending after December 15, 2008? Why or why not?

We do not believe it is operational for entities to implement the proposed Statement for fiscal years ending after December 15, 2008 as substantial effort will have to be made to gather, review, and assess the information required. In addition, we anticipate significant debate with our external legal and accounting firms regarding the disclosures which will take more time to finalize.

We would be pleased to discuss our comments with the Board members or the FASB staff at your convenience.

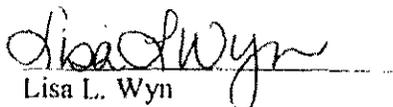
Sincerely,



Richard K. Reece  
Executive Vice President and  
Chief Financial Officer



Barry R. Goldman  
Senior Vice President and  
General Counsel



Lisa L. Wyn  
Director, Financial Reporting