

Friday, August 8, 2008

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



LETTER OF COMMENT NO. 188

**Comment on Exposure Draft – Disclosure of Certain Loss Contingencies  
Amending FAS 5 – File Reference No. 1600-100**

Dear Mr. Golden:

I write in my capacity as Chief Executive of Newground Social Investment, based in Seattle, Washington. Newground is a Registered Investment Advisor and has worked with clients for more than 14 years; my own experience in the industry reaches back to my Merrill Lynch days a quarter-century ago.

I write to comment on the FAS 5 exposure draft on loss contingencies.

Economic theory assumes there is ‘perfect information’ available in the marketplace to enable investors, such as Newground, to make financially efficient and appropriate decisions with their clients’ investment dollars – money intended for a family’s retirement, children’s’ education, and other critical life goals.

At Newground, we agree with the FASB finding that the current statement on disclosure of loss contingencies fails to “provide adequate information to assist users of financial statements in assessing the likelihood, timing, and amount of future cash flows associated with loss contingencies.” This failure must be addressed, and the changes proposed in the FAS 5 exposure draft Accounting for Contingencies represent an important step toward improving disclosure. These steps, and even more stringent ones, will ultimately be needed to adequately protect the American investor and our markets.

We are very concerned, however, with the draft’s treatment (or lack of treatment) of severe long-term risks. The exposure draft only requires disclosure of severe financial threats that a company deems “remotely probable,” and this only if the issue is expected to be resolved within a year.

This gives company management far too much leeway to underestimate genuine threats, or to manipulate the description of the time-frame for a likely solution. This loophole creates the overwhelming likelihood that many companies will continue (as in the past) to strategically ‘misjudge’ or misstate the risks that investors actually face. Investors have suffered enough of this already, and we do not need empty gestures now in place of real reform.

Instead, investors deserve to be told of ALL a company's 'remotely probable' financial threats. Companies can certainly provide reasons as to why these threats may not come to pass – and to do so will be a demonstration to investors of management's skill, foresight, and strategic planning capabilities – but investors MUST be given the opportunity to fully consider the issues and make their own informed judgments.

In addition, in order to improve investor access to reliable information, we urge FASB to:

- Implement the proposed draft language that would require disclosure of all loss contingencies, except those that meet certain narrow criteria (FAS 5 Exposure Draft, paragraph A12).
- Implement the proposed draft language that would require a reporting company to quantify the maximum potential loss in circumstances where it cannot estimate the likely loss (FAS 5 Exposure Draft, paragraph 7a).
- Eliminate or further restrict and define the "prejudicial" information nondisclosure exemption to ensure that it remains a rare exception, and retain the proposed requirement that filers must in any event quantify their liabilities even if other information does qualify for the prejudicial exemption (FAS 5 Exposure Draft, paragraph 11).

Mr. Golden, we appreciate the effort to improve disclosure and to provide investors with the "more perfect" information that we and the markets both deserve, and need in order to function and flourish. Please ensure that the improvements are genuine, lasting, and beneficial by not incorporating exception loopholes that would reduce the rest of this good work to a set of hollow words.

Thank you for incorporating these suggestions into the final version.

Sincerely,



Bruce T. Herbert | AIF  
President | ACCREDITED INVESTMENT FIDUCIARY