

March 30, 2009



Technical Director
Financial Accounting Standards Board
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Via email: director@fasb.org

File Reference: Proposed FSP FAS 157-e (Guidance on Determining Whether a Market Is Not Active and a Transaction Is Not Distressed)

Dear Technical Director:

We appreciate the opportunity to comment on the proposed FASB staff position and applaud the current efforts to improve the guidance in this area.

We have a substantial presence in the Pooled Trust Preferred CDO markets and believe additional guidance is sorely needed for the benefit of everyone involved. Our experience with investors and their auditors/examiners indicates that FSP FAS 157-3 was helpful but not definitive enough under the circumstances.

For instance, we have found that some auditors and examiners seem to consider a less than robust market quotation to be a better indication of Fair Value than a valuation based upon a model with realistic inputs. We suggest an assessment of the "quality" of the market quotation should be required before it is relied upon (that is, just because someone has provided a quotation doesn't mean that is automatically the best indicative value). So we believe that more guidance will help and could actually lower costs for many participants by reducing the time spent debating this subject.

We believe the proposed effective date is operational and urge you not to move it to a later date (or if you do, then earlier implementation for the first quarter of 2009 should be permitted). The securitized debt markets remain inactive and additional guidance is needed now.

We believe the two step method suggested is understandable but incomplete with respect to determining the "quality" of a market quotation. The proposal indicates that sufficient marketing time and the presence of multiple bidders provide a presumption that a quoted price is not a distressed price (our emphasis). We disagree and submit a recent secondary market transaction as an example.

FTN Financial Group 845 Crossover Lane, Suite 150 Memphis, Tennessee 38117 901.435.8080 | 800.456.5460 www.ftnfinancial.com A secondary bid list of Pooled Trust Preferred CDOs has been circulating for about two weeks. Interested parties were given notice that each of the CDOs would trade to the high bidder on a specific date at 10AM EST. There were no reserves in this auction (i.e., the bonds would trade regardless of price). It was known around the street that the seller was a CDO squared (a CDO collateralized by other CDOs) that was being liquidated. There were multiple bids for the securities but all of the bonds traded to one bidder.

Although this transaction meets both of the proposed requirements indicating that it is not distressed, that is not the case. This transaction is actually a forced transaction since the seller had decided (or was forced) to sell regardless of price.

Interestingly, we had a conversation with personnel from a well known pricing service who described this transaction as the basis for their most recent price quotations. They were not aware of the circumstances of the transaction, but only that it had taken place.

This type of activity is commonplace in today's marketplace. There are often multiple buyers willing to purchase securities at a low price (usually hedge funds or other vulture buyers). But there are very few if any willing sellers at those reduced levels. The gap between what a willing buyer will pay and what a willing seller (i.e,. one who is not forced to sell) will accept has never been wider.

A situation analogous to the securitized debt markets is what is happening in residential real estate in some areas. Even though a home might have sold at a historically low price as part of a foreclosure sale, most of us would not consider that price indicative of the value of our home. Yet investors in the securitized debt markets are often required to price their "homes" based upon these foreclosure transactions because pricing services are using them as the basis for their quotations.

We believe your guidance on inactive markets and distressed transactions should be expanded to discuss situations where a transaction is forced. In our opinion, a forced transaction should not be relied upon as being indicative of Fair Value. We should point out that although FAS 157 does clearly note this, we believe it is worth emphasizing again as part of the guidance around distressed transactions. In fact, you might consider changing the description from distressed to "forced" or adding "forced or distressed" as it is currently worded in FAS 157.

We also suggest that multiple transactions by forced sellers might not be indicative of an active market. For example, there have been periods recently where the only transactions that occurred were forced transactions (e.g. European based SIVs that were being liquidated). These periods might have been active in terms of the number of transactions, but were not indicative of what a willing seller (i.e. one who was not forced to sell) would expect to receive.

We also believe that additional guidance is needed to assist in the determination of an appropriate discount rate when using a model for valuation purposes. In our experience, auditors and examiners tend to revert to the same thought process as we described for secondary market quotations. That is, the emphasis is usually on what spread a buyer would use without any regard to whether there are any willing sellers at those levels.

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Again, we appreciate the opportunity to provide our comments and appreciate your efforts.

Sincerely,

Mike Heflin

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