



LETTER OF COMMENT NO. 6

STATE OF NEW YORK
BANKING DEPARTMENT
ONE STATE STREET PLAZA
NEW YORK, NY 10004

August 8, 2008

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

Attention: Technical Director -- File Reference No. 1590-100

By email

Dear Mr. Golden:

The New York State Banking Department (the "Department") has reviewed the Exposure Draft, *Accounting for Hedging Activities -- an amendment of FASB Statement No. 133* ("Exposure Draft"), and is pleased to present the following comments.

The Department acknowledges and appreciates the Board's attempts to introduce a more principles-based approach to some aspects of Statement 133. However, we believe that a simplified, principles-based approach should be proposed on a comprehensive basis to replace all of Statement 133, and if possible this should be achieved on a joint basis with the International Accounting Standards Board. The Alternative Views section provides persuasive arguments against the Exposure Draft in regards to the anticipated convergence of GAAP with International Financial Reporting Standards in the foreseeable future.

In view of the importance of fair value to any comprehensive solution, the Department has three recommendations:

(1) Record instruments with no observable inputs (i.e., Level 3 under Statement 157) at the lower of cost or fair value when inputs were last observable. While this could be criticized for avoiding further write-downs in the current environment, it both increases reliability in financial statement balances and reduces earnings management under better economic conditions. Such instruments would be subject to other-than-temporary impairment write-downs which are based on individual facts and circumstances.

(2) Eliminate liabilities from the fair value option unless following the liquidation basis of accounting. The questionable practice of recording profits due to deterioration in an entity's own liabilities prevents a broader acceptance of fair value accounting.

(3) To provide financial statement users with additional fair value information, require a separate disclosure containing each entity's fiscal year-end balance sheet and income statement with all financial assets/liabilities at fair value.

If the Board decides to continue pursuing piecemeal solutions to Statement 133, the Department has a significant comment on Issue 5 (i.e., the proposed change in the effectiveness evaluation). We believe that requiring an effectiveness evaluation after inception only if circumstances suggest will likely make subsequent evaluations of effectiveness rare events. The Department would require that effectiveness evaluations be conducted at least annually.

If you would like to discuss our letter, please call me at (212) 709-1532 or email me at john.mcenerney@banking.state.ny.us.

Very truly yours,

John McEnerney

Chief of Regulatory Accounting