

Exxon Mobil Corporation
5959 Las Colinas Boulevard
Irving, TX 75039-2298
972 444 1202 Telephone
972 444 1221 Facsimile

Patrick T. Mulva
Vice President and Controller

ExxonMobil

August 7, 2008

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



LETTER OF COMMENT NO. 72

File Reference No. 1600-100: Disclosure of Certain Loss Contingencies

Dear Sir,

This letter is in response to the request for comments on the proposed FASB statement for disclosure of certain loss contingencies, an amendment of FASB Statements No. 5 and 141(R).

We are very concerned about the proposed changes to the FAS 5 disclosure requirements, particularly with respect to litigation contingencies. While the proposed amendments would greatly expand the amount of disclosures available regarding such contingencies, we do not believe that they will accomplish the objective of assisting users to assess the likelihood, timing, and amount of future cash flows. Furthermore, certain of the disclosures could have the unintended consequence of substantially benefiting plaintiffs and their counsel by revealing the company's theories of cases and the expected lines of defense.

ExxonMobil currently has thousands of active lawsuits around the world and the great majority of these cases do not contain specific claim amounts for alleged damages. The proposed standard would require us to continually assess these cases against the remote probability threshold, and for those that are above the remote threshold, to estimate a maximum loss. Making these judgments is very difficult for a single case, let alone for thousands of cases. Frequently the facts of a case may be uncertain, and will evolve unpredictably during the course of discovery and trial. The law applicable to a case will often similarly be uncertain. In addition, the outcome of any litigation depends in large measure on an unpredictable human element, which includes the individual jurors, the judges, the witnesses, and the attorneys. Because of the wide range of uncertain and fluid factors that affect the outcome of litigation, even expert participants are usually unable to make a reliable estimate of the amount and timing of cash flows.

We believe it would be wholly unrealistic to expect that investors, who do not possess a comparable level of legal expertise and familiarity with any one case, would be able to make an independent assessment of the cash flow outcome based on highly subjective and highly aggregated estimates of maximum losses for many cases.

Regarding the limited exemption for disclosing prejudicial information, we agree that such an exemption should be provided, but we do not believe that the exemption as currently written achieves the intended objective of providing relief from the disclosure of "prejudicial information" related to pending or threatened litigation. The mandatory minimum disclosure requirements undermine the potential relief by requiring almost all of the disclosures previously contemplated.

Based on the above, we believe the implementation costs for this standard will far exceed the potential benefits to investors. In fact, instead of providing benefits, we believe the proposed changes will be harmful to investors because of the increased potential for economic losses from litigation cases. We also believe the aggregated and simplistic nature of the quantitative disclosures will harm investors by misleading them as to the complexities and real risks involved with litigation cases.

In summary, we do not believe the proposed statement is operational as currently drafted, and certainly could not be implemented in time for 2008 reporting for calendar year entities. The standard significantly expands existing quantitative and qualitative disclosures and raises substantive concerns regarding prejudicial disclosures that will require extensive discussion and review with senior management and the external auditors. Additionally, as noted above, the majority of litigation claims do not have stated amounts, and the determination of maximum loss estimates would be highly problematic.

We appreciate the Board's consideration of these matters and welcome the opportunity to discuss the above issues. Our responses to the Board's questions regarding the proposed changes are included in Attachment I.

A handwritten signature in black ink, appearing to read "Patrick J. Melone". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Attachment

RESPONSES TO BOARD QUESTIONS POSED IN EXPOSURE DRAFT

Our comments on questions posed by the Board are provided below.

Will the proposed Statement meet the project's objective of providing enhanced disclosures about loss contingencies so that the benefits of those disclosures justify the incremental costs?

We believe the implementation costs for this standard will far exceed the potential benefits to investors. The proposed amendments would significantly expand the nature and scope of quantitative and qualitative disclosures for loss contingencies and would involve significant implementation costs. However, it is unclear how these disclosures will help investors better predict future cash flows. In fact, instead of providing benefits, we believe the proposed changes will be harmful to investors because of the increased potential for economic losses from litigation cases. We also believe the aggregated and simplistic nature of the quantitative disclosures will harm investors by misleading them as to the complexities and real risks involved with litigation cases. Our specific concerns are discussed further below.

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?

This proposed disclosure would be a significant departure from traditional materiality standards, which consider both the likelihood and the impact of an event. Furthermore, the disclosure could encourage frivolous litigation regarding unasserted claims. We also note that IFRS does not require disclosure of remote contingencies regardless of the expected timing or potential severity. The Board's proposal would therefore create another difference between U.S. GAAP and IFRS. In any case, we do not understand the practical need for disclosure of short term risks with a remote probability of occurrence.

We recommend that this requirement be removed from the final standard.

The Statement requires 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. Do you believe this would result in an improvement in the reporting of quantitative information about loss contingencies?

Claim amounts and entity assessments of maximum possible loss exposures are almost always amounts that far exceed the ultimate liability that a company will incur. The aggregation of such amounts into a single number will not provide

meaningful insight on the amounts or timing of future cash flows and as such would not achieve the Board's objectives.

To further illustrate the above concerns, we would like to share with you the observations of some ExxonMobil lawyers on the specific area of litigation contingencies. Our lawyers advise that assessing the likelihood, timing, and amount of cash flows likely to result from a litigation case is a highly speculative and difficult exercise even for an experienced legal counsel who is personally engaged in the case and thus familiar with the many unique and subtle issues of fact, law, and judicial circumstance involved.

ExxonMobil currently has thousands of active lawsuits around the world and the great majority of these cases do not contain specific claim amounts for alleged damages. Frequently the facts of a case may be uncertain, and will evolve unpredictably during the course of discovery and trial. The law applicable to a case will often similarly be uncertain. In addition, the outcome of any litigation depends in large measure on an unpredictable human element, which includes the individual jurors, the judges, the witnesses, and the attorneys. Because of the wide range of uncertain and fluid factors that affect the outcome of litigation, even expert participants are usually unable to make a reliable assessment of the amount and timing of cash flows.

Our lawyers therefore believe it would be wholly unrealistic to expect that investors, who do not possess a comparable level of legal expertise and familiarity with any one case, would be able to make an independent assessment of the cash flow outcome based on highly subjective and highly aggregated estimates of maximum losses for many cases. In fact, the new disclosures create a risk that investors will be misled by the quantification into believing the amounts reflect more certainty about the future than they do.

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?

See response above.

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 financial statements?

We believe that a roll-forward reconciliation of amounts actually recognized for loss contingencies would be much more helpful to users in better understanding the likelihood and amount of future cash outflows that result from a company's loss contingencies. Over time, these disclosures will establish each company's actual experience in resolving loss contingencies, and as such, better achieves

the Board's objectives than disclosures of maximum estimates for contingencies that are more than remote.

The proposed statement provides a limited exemption from disclosing prejudicial information. Do you agree that such an exemption should be provided? If you agree with providing a prejudicial exemption, do you agree with the two-step approach in paragraph 11?

We agree that such an exemption should be provided, but we do not believe that the exemption as currently written achieves the intended objective of providing relief from the disclosure of "prejudicial information" related to pending or threatened litigation. The mandatory minimum disclosure requirements undermine the potential relief by requiring almost all of the disclosures previously contemplated.

Under the two-step approach, entities may first attempt to aggregate amounts with other claims to eliminate prejudicial disclosure. In "rare" cases where aggregation is insufficient to avoid prejudice, only the disclosure which is prejudicial can be omitted. Notwithstanding the above, the required minimum disclosures render the exemption largely useless as a practical matter. These disclosures could have the unintended consequence of substantially benefiting the plaintiffs and their counsel by revealing the company's theories of the case and the expected lines of defense. These disclosures could unbalance the court system in favor of plaintiffs, who would have no corresponding duty to disclose their assessments of a case to defendants. Such disclosures might also frequently involve information that is subject to attorney-client privilege.

For example, our lawyers advise that if management were to disclose an estimate of the maximum loss in relation to a specific case, the claimant would be able to demand discovery of management and its documents to learn the basis for the estimate. This would have the perverse, and we believe unintended effect, of increasing the company's risk of loss. Disclosure of the amount could also prejudice the company's bargaining position in settlement negotiations.

Do you agree with the description of prejudicial information as information whose "disclosure...could affect, to the entity's detriment, the outcome of the contingency itself"?

We agree with the proposed definition.

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?

It will be a significant burden to disclose all of the proposed requirements for interim as well as annual reporting periods. We believe that user needs will be served by limiting interim reporting to significant changes from the prior year-end.

Do you believe it is operational for entities to implement the proposed Statement in fiscal years ending after December 15, 2008?

We do not believe the proposed statement is operational as currently drafted, and certainly not for 2008 reporting for calendar year entities. The standard significantly expands existing quantitative and qualitative disclosures and raises substantive concerns regarding prejudicial disclosures that will require extensive discussion and review with senior management and the external auditors.

Additionally, as noted above, the majority of litigation claims do not have stated amounts, and the determination of maximum loss estimates would be highly problematic. In any event, the sheer number of cases to be evaluated and the estimations to be made will make a 2008 year-end start nearly impossible.