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Mr. Robert H. Herz Chairman, Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116



LETTER OF COMMENT NO. 312

Dear Chairman Herz:

I am writing to you to join the chorus of voices clamoring for a one-year delay in the effective date of FIN 48 on Accounting for Uncertainty in Income Taxes. The intent and objectives of FIN 48 are worthy and will result in lasting benefits to shareholders and corporations. The request for a one year delay is merely meant to ensure that companies receive the guidance they need to properly implement a new and far-reaching pronouncement and their efforts are not impeded by the circumstances of the present environment in which companies and audit firms are grappling with accelerated timetables to file annual reports while simultaneously implementing other new and complex rules, such as those related to stock options.

Implementation of FIN 48 should bring greatly needed discipline to companies in meeting their responsibility to catalogue, analyze and assess their tax positions and, therefore, should result in a complete and transparent accounting of tax positions within financial statements. The rigor required to comply with FIN 48 should also ensure that tax positions taken have been well identified, analyzed and vetted with management and alleviate any concern that adequate controls do not exist with respect to the adoption of tax planning strategies by companies. The work papers required to comply with FIN 48 also will greatly serve to make the financial statement audit process more efficient and effective by bringing many of the elements needed to sign-off on the tax provision together in one place. The only thing that FIN 48 really requires is time and guidance.

I believe the comments that best articulate the need for a delay in the effective date of FIN 48 come from Scott Taub, SEC Deputy Chief Accountant (see http://www.sec.gov/news/speech/2006/spch121106sat.htm). At the 2006 AICPA National Conference on Current SEC and PCAOB Developments on December 11, 2006, Mr. Taub referred to the "race to the 'safe' answer of either not recording the tax benefit or creating significant work to support obvious positions." In this regard, Mr. Taub observed that many people are incorrectly reading FIN 48 to require "detailed analysis and documentation" for "even the most obvious tax position," such as deductions for

depreciation and charitable contributions. Mr. Taub concluded that the "race to the safe answer" will lead to either "bad financial reporting or useless work being done." I read Mr. Taub's remarks as saying companies and their audit firms are misinterpreting the scope of FIN 48 as reaching questions of fact in addition to interpretations of law. I think that is a wise interpretation of FIN 48, but fear that, in the absence of operative guidance to that effect, companies and their audit firms are too concerned that mistakes will lead to a finding of a weakness in their controls and, therefore, will continue to veer toward what Mr. Taub described as "bad financial reporting" and "useless work."

If FIN 48 were to be interpreted to reach questions of fact, it potentially would extend to each and every tax position in each and every taxing jurisdiction, including simple booktax differences reflected in the schedule M. To my mind, such a broad scope for FIN 48 would encompass processes already covered by the requirements of SOX 404. In the case of companies like Chemtura that have complex global structures resulting from a history of mergers and acquisitions, the challenge to effectively addressing so many fact based issues in a new and separate process would be acute because its tax positions span a countless number of jurisdictions and cut across a plethora of business activities. I would question, though, whether it is really necessary to document separately, for purposes of FIN 48, the deductions for meals and entertainment and executive compensation, for example, or whether it is sufficient that the processes for gathering the information needed to calculate the amount of these expense disallowances meet the requirements of SOX 404. Similarly, even for more complex issues like those involving the foreign base company sales income rules, I wonder whether a new FIN 48 analysis is necessary to supplement the documentation already required for purposes of SOX 404 to demonstrate that the data had been gathered and the issues analyzed. On the other hand, I do think factual data gathering issues in this area can be distinguished, for purposes of FIN 48, from legal issues that might need to be addressed if we were, for example, dealing with whether contract manufacturing constituted manufacturing or created a separate branch for purposes of applying the foreign base company sales income rules.

On the bright side, I think all the concerns, issues and angst which have arisen are testament to the seriousness with which companies and their audit firms have taken the new pronouncements and the efforts they have made to comply. A delay in implementation, however, is necessary to give companies enough time to comply effectively and/or for FASB to spell out in more detail the requirements of FIN 48 so that companies and audit firms focus themselves on the matters that FASB would most like to see addressed. If FASB views the scope of FIN 48 in the same manner as I think Mr. Taub does, they need to come out and say that or otherwise a lot of "useless work" will continue to be done. If FASB does not agree with Mr. Taub, then additional time to comply is required because the effort to accumulate the documentation called for would go well beyond the control of the Tax Director and require cooperation and an equal amount of effort from professionals throughout the corporation.

I'd like to reiterate that I believe implementation of FIN 48 will be very beneficial for companies and their shareholders. My only interest in asking for the effective date to be delayed until next year is to improve the circumstances under which that implementation will take place so that the worthy goals of FIN 48 can be fully realized.

Thank you in advance for your consideration in this matter.

Sincerely,

Alan R. Weiner

Cc: Karen Osar – Executive Vice President & Chief Financial Officer Kevin Mahoney – Senior Vice President & Controller