JPMORGAN CHASE & CO.

Shannon S. Warren
Managing Director
Corporate Accounting Policies

December 5, 2008

Mr. Russell G. Golden
Technical Director
Financial Accounting Standards Board
401 Merritt 7
Norwalk, CT 06856-5116

EITF03-6A

LETTER OF COMMENT NO. 6A

FSP EITF 03-6-1 – *Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities*

Dear Mr. Golden:

JPMorgan Chase ("JPMorgan Chase" or the "Firm") is writing to comment on the recently issued FASB Staff Position EITF 03-6-1, *Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities* ("FSP"). The Firm previously commented on the FSP in a letter dated December 9, 2006, and recommended that the Board address all of its outstanding EPS issues comprehensively in connection with its project to amend SFAS 128(R). The minutes of the Board's March 28, 2007, meeting suggest that the Board agreed with this approach, as those minutes indicate that the guidance in the FSP, and related FSP FAS 128-a, *Computational Guidance for Computing Diluted EPS using the Two-Class Method* ("FSP 128-a"), would be codified in SFAS 128(R). The Firm believes that the Board's previous decision was correct, and recommends that the FASB rescind this FSP for the reasons noted below.

- The Firm is troubled by having to implement the FSP prior to having final guidance on computing diluted EPS using the two-class method. While we acknowledge that the Exposure Draft of SFAS 128(R) proposes an extensive amount of computational guidance, we do not expect this guidance to be finalized before entities are required to effectively implement it by virtue of adopting the FSP. We strongly believe that it is inappropriate for the Board to essentially require companies to implement guidance that is still in the proposal stage, as that practice undermines the integrity of the Board's due diligence process. At best, the companies that must implement the FSP remain exposed to the risk that the computational guidance will be revised when there is little or no time left to respond.

- As a practical matter, JPMorgan Chase is concerned about EPS guidance being published on a piecemeal basis. The Exposure Draft of SFAS 128(R) was issued in August 2008 with no effective date specified (other than being effective at the beginning of a fiscal year). Both the FSP and the Exposure Draft of SFAS 128(R) require retrospective restatement of EPS. The issuance of the FSP and the potential issuance of SFAS 128(R) within a short timeframe would require the Firm to restate five years of EPS data twice. There is a significant operational burden associated with performing multiple restatements of the same data elements. The Firm also believes that multiple restatements may be confusing to financial statement users – particularly when the same data elements could be restated more than once within a short time period.

J.P. Morgan Chase & Co. • 245 Park Avenue, Floor 10, New York, NY 10167

Telephone: 212 648 0906 • Facsimile: 646 534 6153
warren_shannon@jpmorgan.com

- Finally, JPMorgan Chase notes that this FSP will primarily impact the basic EPS calculation. For companies that are affected by the FSP, basic EPS will typically be reduced and may approach the amount of the entity's diluted EPS. The Firm believes most financial statement users are much more focused on diluted EPS than basic EPS. Considering the operational issues discussed above (i.e., computational guidance not finalized, the possibility of multiple restatements in a short timeframe), the Firm questions the rationale for issuing an FSP that addresses a less important EPS issue when broader changes to the EPS standards are imminent.

To resolve these issues, JPMorgan Chase believes that the FSP should be rescinded, with its requirements incorporated into SFAS 128(R) prior to finalization. This will enable both the Board and its constituents to focus on the proposed changes to the EPS standards in their entirety and to evaluate any potential issues related to the Board's stated objective of converging SFAS 128(R) with IAS No. 33, *Earnings per Share*. From a practical perspective, the Firm strongly believes that addressing all EPS-related issues in one project with one effective date is the Board's most appropriate course of action.

* * * * *

If you have any questions or would like to discuss our comments further, please do not hesitate to contact me at 212-648-0906 or Nicole Karagheuzoff at 212-648-0381.

Sincerely yours,

Shannon S Warren

J.P. Morgan Chase & Co. • 245 Park Avenue, Floor 10, New York, NY 10167

Telephone: 212 648 0906 • Facsimile: 646 534 6153
warren_shannon@jpmorgan.com