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LETTER OF COMMENT NO. /

December 22, 2008

Technical Director
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk CT 06856

File Reference: Proposed FSP EITF 99-20-a

Dear Sirs:

Below is an excerpt from my recent report which I would like to provide as a comment letter on the FASB's proposed FSP to amend EITF Issue No. 99-20.

Rushing to Align EITF 99-20 Impairment Model for Securitization Interests

On Friday, December 19, 2008, the FASB issued a proposed FASB Staff Position (FSP) to amend EITF 99-20, *Recognition of Interest Income and Impairment on Purchased Beneficial Interests and Beneficial Interests That Continue to Be Held by a Transferor in Securitized Financial Assets*. EITF 99-20 governs the recognition of interest income and provides special other-than-temporary impairment rules for certain beneficial interests in securitizations that were accounted for as sales under FAS 140, the pronouncement on securitizations.

Background on EITF 99-20

Included in its scope are beneficial interests accounted for as debt securities. Although EITF 99-20 excludes "high credit quality" beneficial interests, which the SEC has interpreted to include beneficial interests with a credit rating of AA or higher, it includes in its scope IOs and other residual interests, even if they are of high credit quality. At the FASB meeting it was noted that some believe more securities may be being brought under the guidance of EITF 99-20 than originally anticipated.

Under EITF 99-20, interest income is accrued using a constant yield approach, multiplying the expected yield by the adjusted basis. The expected yield is adjusted as estimates of future cash flows change.



EITF 99-20 requires beneficial interests be evaluated for other-than-temporary impairments using a two-step approach:

EITF 99-20 Step 1: Is the beneficial interest's fair value below its adjusted carrying amount? If no, there is no impairment. If yes, proceed to Step 2.

EITF 99-20 Step 2: Is there an *adverse change in estimated cash flows*? If no, no impairment needs to be recognized. If yes, recognize an other-than-temporary impairment.

Under current rules, an *adverse change in estimated cash flows* occurs when the present value of the previously estimated cash flows exceeds the present value of the currently estimated cash flows (*from a market participant's viewpoint, not the company's.*) The present values are calculated using the effective yield currently used to accrete interest income. When both of these conditions are met, the carrying amount of the beneficial interest should be written down to fair value, with the resulting loss recorded in earnings.

It is EITF 99-20's focus on how a "market participant" would estimate cash flows that is a significant driver of the current concerns. It appears that company's evaluation of the credit risk on the assets underlying the beneficial interests wasn't corresponding to the fair values being estimated by brokers and others. However, EITF 99-20's requirement to determine if an adverse change in estimated cash flows had occurred based on a market participant's view appears to have led companies to recognizing an impairment, even if there was a strong belief that there had been no deterioration of the credit risk of the underlying cash flows. In other words, some feel that EITF 99-20's more quantitative determination of impairment leads to impairment charges faster than under FAS 115.

Change to Allow Management's Assessment of Probability

The Board agreed to issue an extremely short-term proposed FSP to remove the need to consider a market participant's view of expected cash flows, and instead requiring an impairment charge be taken when there is a probable adverse change in estimated cash flows. Board members generally agreed that the existence of multiple impairment models under GAAP was troublesome, but did question the need to address this particular issue ahead of a broader reexamination of impairment (potentially in the longer-term project on accounting for financial instruments, discussed below.) Many felt that additional disclosures, including information of the impact of illiquid markets on valuations, would be useful to investors in understanding the current impairment charges.

There is a concern the proposed change will serve only to delay the recognition of impairment charges. However, the Board is providing companies, auditors and investors with this opportunity to provide their arguments on the need for or against such a change. Board members, although questioning the need for a narrow amendment, stated that they would carefully evaluate the comments received.



Although reducing the number of impairment models is an admirable long-term goal, one must question the underlying issues in the case at hand. EITF 99-20 does not require companies to factor illiquidity into their other-than-temporary evaluations; rather, it requires companies to look outside their own estimates, and to use their "best estimate of cash flows that a market participant would use in determining the current fair value of the beneficial interest." According to the proposed FSP, "Some constituents have indicated that because Issue 99-20 requires entities to use market participant assumptions regarding future cash flows without consideration of the probability that all cash flows will be collected, the application of Issue 99-20 in a dislocated market automatically results in an OTTI any time the fair value is less than cost." An interpretation of the argument against EITF 99-20, therefore, is that companies do not want to use market participant assumptions or are unable to determine them; they'd rather use their own estimates and probability assumptions. One would have to question, then, how and why the company's own assumptions would stray significantly from its view of market participant's assumptions?

The FASB, apparently believing that any potential change should be effective for year-end financial statements, has proposed the rule be effective for interim periods ending after December 15, 2008 (so the current fourth quarter for calendar-year companies.) The comment period ends on December 30, 2008. The staff and Board will then evaluate comments received in time for its Wednesday, January 7, 2009 Board meeting, with potential issuance shortly thereafter.

Leaving Due Process Behind

One aspect that is of significant concern, especially to investors, is the FASB's diversion from its own standards of due-process. The FASB's website states that the exposure period for proposed FSPs "should never be less than 15 days." The comment period for this proposal is 11 calendar days over the holiday season, including at best six normal business days. Although expediency might be argued to allow any final rule to be ready for year-end financial reporting, an equal argument would question that if it's so important, doesn't it require *full due process*?

Sincerely,

/s/ Janet L. Pegg

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