



LETTER OF COMMENT NO. 36

January 15, 2009

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

File Reference: Proposed FSP FAS 107-a

Dear Mr. Golden:

MBIA Inc. appreciates the opportunity to comment on the Proposed FSP FAS 107-a, *Disclosures about Certain Financial Assets: An Amendment of FASB Statement No. 107*, (the "Proposed FSP"). MBIA provides financial guarantee insurance and other forms of credit protection, as well as investment management services to public finance and structured finance issuers, investors and capital markets participants on a global basis.

Scope:

We support the board's objective for this project to increase the comparability of information about certain financial assets that have related economic characteristics but have different reporting measurement attributes. Despite the fact that our insured credit default swaps ("insured CDS") are not materially different than our insurance policies, we are subjected to mark-to-market (MTM) rather than insurance accounting. For MBIA and the bond insurance industry, the solution is evident. FAS Statement 133, *Accounting for Derivatives and Hedging Activities* ("FAS 133"), should be amended to provide that credit protection in credit derivative form written by bond insurers subject to Article 69 of the NY Insurance Law is outside its scope. FAS 133 currently provides for financial guarantee insurance policies written by bond insurers to be exempt from fair value accounting. We believe that since our insured CDS contracts are functionally nearly identical to our Financial Guaranty ("FG") policies and are both held to maturity, differential accounting treatment is an example of accounting by form rather than economic substance which provides confusing information to investors. Recognizing through earnings only the incurred loss component or impairment is more representative of the cash flows that we are expected to payout, especially if our intention is hold the contingent liability to maturity.

The above recognition and measurement issues are yet unresolved and the number and variations of measurement attributes and impairment models for financial assets and

liabilities create complexity. The Board recently added to its agenda a comprehensive joint project with the IASB to address these complexities related to recognition and measurement of financial instruments, including impairment, and we hope the FASB and IASB would expand the scope to consider financial liabilities as part of that project.

In the meantime, the users of our financial statements have commented that information regarding the impairment (ultimate expected losses) of our insured CDS rather than the fair value mark of our insured CDS is useful information; therefore we request that the Proposed FSP be expanded to also include all financial assets and liabilities that are carried at fair value. We currently report in our Management's Discussion and Analysis section of our 10-K what our internal evaluation of the ultimate expected losses, or impairment, on our insured CDS contracts. We would like the opportunity to include this in our FAS 107 fair value disclosures as well as disclose this in our pro-forma income from continuing operations to illustrate to our investors and analysts the estimated ultimate impact of issuing our insured CDS.

We encourage the Board to allow the reporting of what management believes it expects to ultimately realize on all of its financial instruments (whether assets or liabilities) carried at fair value, if and when this amount is different than the reported value. The disclosures should indicate management's method for determining this basis as well as its intentions for these financial instruments. This value should include consideration of management's ability and intent to hold these instruments either for trading purposes or to hold to recovery or maturity. These determinations would drive management estimates of the incurred loss amounts to be disclosed. In the event that the financial instruments are held for trading purposes, then the current recorded fair value would likely be the realizable value as management's intention is not to hold the security to a specific recoverable value. Whereas if the intention of management is to hold the instrument to recovery or maturity, a discounted cash flow approach using management's best estimates and assumptions may be warranted to determine what managements expected recovery or impairment would be.

As we have noted in previous written communications to both the Board and the SEC, as part of the SEC study on mark-to-market accounting standards in response to the congressional mandate in section 133 of the Emergency Economic Stabilization Act of 2008, our financial guarantee insurance contracts which do not meet the FAS 133 scope exception are non-transferrable, non-cancellable and do not require collateral posting. It is our intention that we will hold these to maturity or, when an impairment is determined, work to maximize the benefit for the Company through various mitigation efforts. Therefore, management performs robust analysis on what we believe the ultimate impairment of these guarantees accounted for as derivatives will likely be. We would welcome the opportunity to disclose this information and insight into management's analysis in our fair value disclosures.

Clarifications:*Pro forma income from continuing operations*

1. We would request that the Board, in the FSP, provide clarifications on the reporting of the pro forma income from continuing operations (before taxes).

We would ask that the Board clarify whether the initial year of adoption should include a cumulative adjustment for the fair value and incurred loss amounts or whether preparers are expected to calculate the beginning period fair values and incurred loss amounts and only include the current years impact in the pro forma income from continuing operations in the initial year of adoption.

2. Additionally, we request that the Board clarify what the pro forma income amount should reflect, whether we should update the pro forma income from continuing operations to reflect changes in yields using the respective fair value and incurred loss model or whether the pro forma amounts will only reflect the changes in the basis as if these amounts were reflected in income.

Disclosure frequency requirements

3. Finally, the standard indicates that the FSP shall be effective for interim and annual reporting periods. Is it the intention of the board that all of the disclosure requirements of FAS 107, including those not specifically modified by the FSP, become required for all interim reporting periods in addition to the currently required annual reporting?

In response to your specific questions:

1. Do you believe that requiring disclosure of different reporting measurement attributes (that is, as reported in the statement of financial position, at fair value, and at the incurred loss amount) for certain financial assets within the scope of this proposed FSP would (a) improve the quality of information provided to users of financial statements and (b) increase the comparability of financial statements under U.S. generally accepted accounting principles (GAAP) and IFRS? Why or why not?

We believe that the additional disclosures improve the quality of the information and provide additional insights into management's decision making processes for investors. As noted above, we believe that this should be further expanded to include other financial instruments such as our insured CDS contracts or other financial instruments that have related economic characteristics but have different reporting measurement attributes. However, this is not a long term solution to increase confidence in financial reporting and we would encourage the FASB and IASB to address the broader recognition and measurement issues as part of the comprehensive joint project.

2. Do you agree that the proposed disclosures should not include financial assets measured at fair value in the statement of financial position with changes in fair value recognized through earnings? If not, would you propose including such financial assets within the scope of this proposed FSP? Should financial assets measured at the lower of cost or fair value (such as mortgage loans) be included within the scope of this proposed FSP? Why or why not?

We believe that all financial assets as well as financial liabilities should be included within the scope of this statement when they have related economic characteristics but have different reporting measurement attributes. We would propose including such financial assets and liabilities carried at fair value to be included within the scope of this proposed FSP.

3. Do you believe that requiring disclosures of the pro forma income from continuing operations (before taxes) for financial assets within the scope of this proposed FSP as if those financial assets were carried (a) at fair value with changes in fair value recognized through earnings and (b) at the incurred loss amount with changes recognized through earnings would improve financial reporting? Why or why not? Should the disclosure requirements described in the preceding sentence also be required for net income and shareholders' equity? Why or why not?

We believe that the pro forma income from continuing operations for both fair value and incurred loss amounts (including the proposed expansion of scope above) would improve financial reporting. This measurement would give insights into the internal reporting management uses to evaluate its capital positions over a long term horizon and drive its key business decisions. Investors have requested additional insights into how management evaluates its business results and this expanded disclosure provides much of this insight in a quantifiable, easy to understand format in one location. As we know, net income is the metric people rely on. With this expanded disclosure, management can further emphasize their judgments on expectations of future results in investments or loss mitigation in financial instruments, further allowing investors increased ability to evaluate how well management's skill in forecasting future results of investment or loss mitigation decisions.

4. Would including separate reconciliations of reported income from continuing operations (before taxes) to the proposed pro forma adjusted income from continuing operations (before taxes) under both a fair value basis and an incurred loss basis for financial assets within the scope of this proposed FSP be useful? Why or why not?

We believe that the required pro forma adjusted income from continuing operations as required by the FSP is sufficient.

5. Do you believe that the provisions of this proposed FSP should be effective for interim and annual reporting periods ending after December 15, 2008? Why or why not? Do you believe that the disclosures in this proposed FSP should be provided on a

comparative basis for subsequent periods after initial application of the proposed FSP? Why or why not?

Due to some of the operational challenges, as well as the additional clarifications requested, we believe that the FSP should be made optional for periods ending after December 15, 2008 and required for periods ending after March 15, 2009.

6. Are all of the disclosures in this proposed FSP operational based on the proposed effective date? Why or why not? Please be specific in your response.

Due to the short timeframe for implementation and the significance of these and other year-end disclosures (e.g., FSP FAS 133-1 and FIN 45-4, FSP FAS 140-4 and FIN 46(R)-8, FSP EITF 99-20-1., etc.), as well as the questions and clarifications requested above, we have significant concerns about the ability to provide these disclosures under a controlled, Sarbanes-Oxley compliant process by the current reporting deadlines as mandated by the SEC for year-end filers. Based on our interpretation of the FSP, the majority of the information is already prepared by management as part of their internal business analysis; however, this information and many of its sources are not subject to the rigor of a SOX compliant process, which would need to be created, tested and implemented to include in our annual filings. As noted above, we would request that the disclosures are optional for year-end 2008 filers and become required by Q1 2009, which should provide sufficient time to develop the necessary controls around the processes needed to develop and report this information.

Thank you for considering our proposal and for the opportunity to contribute to the standard-setting process. Should you have any questions about our letter, please do not hesitate to contact Kelley Kortman, Vice President of Accounting Policy Group at (914) 765-3263 or Huy Tran, Managing Director of Accounting Policy Group at (914) 765-3557.

Sincerely,



Huy Tran
Managing Director
Accounting Policy Group
MBIA Inc.