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March 24, 2009

LETTER OF COMMENT NO. 31

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

Via email: director@fasb.org

RE: Preliminary Comments on Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b: *Recognition and Presentation of Other-Than-Temporary Impairments*

Dear Mr. Golden:

The American Bankers Association (ABA)¹ appreciates the opportunity to comment on the Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b, *Recognition and Presentation of Other-Than-Temporary Impairments* ("proposed FSP"). We commend the FASB's efforts to improve guidance relating to other than temporary impairment: ("OTTI") and we wish to provide preliminary comments on the Proposed FSP. A more fully developed comment letter will follow in a few days. However, since the final FSP is due for implementation during the first quarter 2009, we wanted to provide this timely input on some of the more significant concerns for your consideration prior to the April 1 comment letter deadline. These comments are greatly summarized, but they address some of the most critical points.

Overall, ABA supports the Proposed FSP. Specifically, we believe that the threshold to recognize market-related OTTI based on the lack of intent to sell (management asserts that it does not have the intent to sell the security, and it is more likely than not that it will not have to sell the security before its recovery) is certainly more operational than the current requirement. ABA also strongly agrees with the proposal to recognize only credit losses through earnings.

Although the ABA supports the Proposed FSP, we strongly encourage the FASB to take this opportunity to make additional repairs to the OTTI guidance, which is

¹ ABA brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry's \$12.7 trillion in assets and employ over 2 million men and women.

currently extremely problematic and has been for years. We believe the following recommendations will materially improve transparency, reliability, and clarity.

Major Points

- **OTTI should be based on credit losses rather than mark to market losses.**
 - We agree that probable credit losses represent actual economic losses of a security and should be recorded in earnings. However, market-related losses on debt securities should not be a part of OTTI at all (unless there is the intent to sell or it is more likely than not the company will be required to sell prior to recovery). Debt securities are different from equity securities because of the contractual cash flows and maturities that exist. Discounts within market quotes will, absent further credit losses, necessarily disappear over time.
 - Estimates of fair values in the current market environment are likely to be unreliable, no matter how diligent the effort is for accuracy. Recording estimated market values (and, thus, declines to equity) where bid prices are often significantly greater than the ask prices misleads users, who assume reliability in financial statements. With this in mind, market-related losses should not be recorded in OTTI for available-for-sale securities, unless the intent to sell exists. In practice, AFS securities do not meet the definition of trading and should not have the presumption of intent to sell.
 - Recording market losses as OTTI on held-to-maturity securities contradicts the contention that such investments are held to maturity and will not be subject to any market-related loss. This confuses the reader of the financial statements and adds unnecessarily complicated operational challenges to the preparers. It is also illogical to reduce the book value of a debt security as a loss to OCI, only to accrete the amount over time back to the value of the security. This helps demonstrate that non-credit market losses should not be a part of OTTI if there is no current intent to sell.

- **The Proposed FSP should apply to securities with OTTI at the effective date.** The FSP should include a “true-up” for securities with OTTI by recording a one-time beginning balance adjustment between retained earnings and other comprehensive income. This will help avoid confusion about the measurement basis for securities subject to OTTI before the proposed FSP compared to OTTI measured afterward and will increase consistency and comparability on these securities.

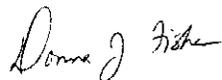
Additional Points of Concern

- **Recoveries of OTTI should be reversed.** OTTI should not be permanent if, in fact, the impairment is not permanent. Recoveries of OTTI should be immediately reversed through earnings in order to more accurately reflect performance of the borrower of the underlying assets and to provide consistency with other impairment accounting.

- **The discussion of the meaning of “credit losses” should be expanded.**
While an SFAS 114 measurement methodology is used as an example in the Proposed FSP, in order to avoid confusion with other references in GAAP to the fair value of “credit risk”, an expanded description would be useful. In other words, the amount recorded to earnings should be based on an estimate of the actual credit losses, rather than an extraction of the portion of the fair value affected by a change in the credit risk.
- **Equity securities that hold asset-backed securities should be addressed.**
 - Preparers should be able to bifurcate the credit loss portion of OTTI in certain mutual funds investing solely in asset-backed securities (debt securities). Investors should also be able to “look through” to the underlying securities’ cash flows for funds that are closed to new investors and have “in-kind” redemption policies in effect.
 - Other guidance on evaluating credit losses for common and preferred stocks will be useful.

Thank you for your attention to these matters and for considering our views. Please do not hesitate to contact Mike Gullette, ABA’s VP of Accounting and Financial Management (202-663-4986) or me if you would like to discuss these points with us.

Sincerely,



Donna J. Fisher