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ASSOCIATION OF FINANCIAL GUARANTY INSURERS

Unconditional, Irrevocable Guaranty®

November 14, 2008

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

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LETTER OF COMMENT NO. 22

Dear Mr. Herz:

This letter is submitted on behalf of the Association of Financial Guaranty Insurers ("AFGI") to request a one year deferral of the effective date of SFAS No. 163, *Accounting for Financial Guarantee Insurance Contracts* ("SFAS 163"). AFGI members (collectively "we") are primarily engaged in the regulated business of financial guarantee ("FG") insurance and provide credit enhancement for a wide variety of domestic and international transactions, with our business generally including public finance and asset-backed security transactions. As such, nearly all of the participants engaged in the FG business which are most affected by the issuance of SFAS 163 have been considered in this request.

We are requesting that all provisions of SFAS 163, excluding those paragraphs noted below, be deferred for one year and become effective for financial statements issued for fiscal years beginning after December 15, 2009, and interim periods within those fiscal years. We are not requesting a deferral, and are prepared to comply with the accelerated disclosure requirements in paragraphs 30(g) and 31, which are effective for the first interim period beginning after the issuance SFAS 163.

We are faced with numerous challenges in implementing this standard including an extremely short implementation timeframe, resolution of difficult interpretational issues, significant technology systems issues, the impact on reinsurance reporting and Sarbanes-Oxley compliance documentation requirements. These challenges are compounded by the unprecedented credit crisis which has placed a severe strain on our finance, accounting and technology resources. We further describe these challenges below:

1. **Implementation timeframe**: SFAS 163 was released in May 2008, which provided a lead time of less than eight months for implementation of a standard which requires the adoption of a completely different accounting model for our core financial guarantee product. The final standard also differed significantly from the exposure draft so there was little lead time to begin implementation prior to the issuance of the final standard. The implementation of a new accounting model requires numerous and significant changes to our premium and loss reserving work flow, processes and control environment, as well as our technology infrastructure. Other recent standards, which in many cases were significantly less complex and/or less comprehensive in scope, had longer implementation lead times. Some recent examples include (with lead times in parentheses): SFAS 160, *Noncontrolling Interests in Consolidated Financial Statements* (13 months), SFAS 157, *Fair Value Measurements* (16 months), SFAS 156, *Accounting for Servicing of Financial Assets* (10 months), SFAS 155, *Accounting for Hybrid Financial Instruments* (11 months) and FAS 153, *Exchanges of Nonmonetary Assets* (13 months).

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Additionally, there are recent examples of the FASB Board delaying implementation of various pronouncements including:

- FSP FAS 157-2, *Effective Date of FASB Statement No. 157*, delayed the effective date of SFAS 157 to fiscal years beginning after November 15, 2008, and interim periods within those fiscal years for nonfinancial assets and nonfinancial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a recurring basis (annually). The delay was intended to allow the Board and constituents additional time to consider the effect of various implementation issues that have arisen, or that may arise, from the application of SFAS 157.
- SOP 07-1, *Clarification of the Scope of the Audit and Accounting Guide Investment Companies and Accounting by Parent Companies and Equity Method Investors for Investments in Investment Companies*, was originally effective for financial statements issued for fiscal years beginning on or after December 15, 2007. In preparing to implement SOP 07-1, constituents identified significant issues that needed to be resolved by the Board to ensure compliance with the provisions of SOP 07-1 by its effective date. They asked for a delay in the effective date of SOP 07-1 so the Board could consider those implementation issues and whether to modify SOP 07-1. In February 2008, the Board issued FSP SOP 07-1-1, *Effective Date of AICPA Statement of Position 07-1*, to delay indefinitely the effective date for SOP 07-1.
- FIN 48, *Accounting for Uncertainty in Income Taxes*, was originally effective for annual financial statements for fiscal years beginning after December 15, 2006 for all entities. The Private Entity Financial Reporting Committee (PCFRC) observed that certain private entities (i.e. not-for-profit entities and pass-through entities) have not paid taxes and therefore have not applied SFAS 109. Consequently, there was confusion as to whether FIN 48 applied to such entities. Subsequently, in February of 2008 FSP FIN 48-2, *Effective Date of Interpretation No. 48 for Certain Nonpublic Enterprises* was issued to defer the effective date for certain nonpublic enterprises to fiscal years beginning after December 15, 2007. At the October 15, 2008 meeting, the Board decided to issue another proposed FSP (FSP FIN 48-C) to defer the Interpretation for all nonpublic entities until fiscal years beginning after December 15, 2008.

2. **Interpretational issues**: There were numerous interpretational and implementation issues that were not addressed in the final standard which have required months of extensive meetings within AFGI to identify and discuss alternative accounting views, coordination with our respective auditors and attorneys, and in some cases, communication with the FASB Staff. Some of these issues were originally communicated to the FASB in our comment letters to the exposure draft. The most significant issues were not resolved until September 2008, hampering our ability to develop processes and systems to implement the standard within an already short time frame. The most significant issues included:
    a. Revenue recognition on partially refunded municipal transactions
    b. Premiums written recognition for installment premium contracts
    c. Foreign currency translation of unearned premium revenue (UPR)
    d. Deferred acquisition cost treatment for installment premium contracts, including treatment of ceding commissions on reinsurance contracts
    e. Revenue recognition on insured municipal bonds legally defeased where the insured bonds remain outstanding

f. Interaction between uncollectible premiums, UPR and claim liability recognition
g. Implementation for transactions with unique contractual terms, e.g. – revenue recognition on funded vs. unfunded obligations, hybrid transactions containing large upfront premium and installment premiums, etc.

3. **Systems implementation**: Systems implementation challenges are enormous given the scope of accounting changes. The financial guarantee product is unique and there are no "off the shelf" technology solutions in the market place for the existing accounting model, much less the model required under SFAS 163. All accounting systems and programming logic currently in use were internally developed and are the result of years of development and continual enhancement, as the financial guarantee product evolved and increased in complexity. The adoption of SFAS 163 requires the development of new front-end screens for proprietary systems, the development and testing of new code, the modification of databases, and the creation of multiple reports to enable general ledger recording, reconciliations, as well as disclosure reporting and reinsurance reporting. Additionally, because of the changes under SFAS 163, there must be significant re-engineering of internal workflows, including the data sharing process between primary insurers and reinsurers further described below. Finally, the NAIC is currently deliberating what aspects of FAS 163 to adopt and/or modify. As such, it would be optimal to incorporate NAIC final changes into our accounting/reporting systems at the same time for both GAAP and statutory accounting compliance.

4. **Reinsurance reporting:** Most financial guarantors either cede a portion of their financial guarantee exposure to reinsurers or are in the business of assuming this exposure. SFAS 163 requires the reporting of data that heretofore may not have been shared between companies that are party to reinsurance contracts, most significantly future installment premiums. Some of this information may not be available to the reinsurer from the primary insurer in a manner that fully allows reinsurers to assess its impact on their financial reporting processes and controls given the tight implementation timeline.

5. **SOX compliance**: Sarbanes-Oxley compliance documentation requirements for changes in accounting processes, workflows and systems changes discussed above are significant. All modifications and testing must be reviewed and approved by each of our external audit firms.

6. **Recent market events**: Significant market events related to the current credit crisis have placed a severe resource strain on the financial guarantee industry's finance, accounting and technology personnel. These unprecedented events, which began toward the end of 2007 and are on-going, have resulted in negative rating actions by one or more credit rating agency for all industry participants, including actual credit rating downgrades and/or reviews for downgrade. These rating agency actions have resulted in significant finance, accounting and technology personnel resources being re-directed to address additional reporting and analytical needs associated with i) increased regulatory scrutiny at the Federal and state level (i.e. – state insurance regulators, SEC, congressional inquires, etc.), ii) actions to ensure adequate capital levels including capital raising efforts iii) efforts to explore alternative business models, iv) significantly increasing loss remediation activity and addressing related accounting issues and v) discussions with government officials on the financial guarantee industry's participation in the Troubled Asset Relief Program ("TARP").

We would also note that the proposed FSP FAS 140-e and FIN 46(R)-e requires enhanced disclosures for non-transferor enterprises that hold significant variable interests in a variable interest entity ("VIE"). The Board recently decided to make this FSP effective for fiscal periods ending after December 15, 2008, which places another significant reporting burden on AFGI members for year-end 2008 as our industry has provided financial guarantees to a significant number of asset-backed securitization transactions involving VIEs. Additionally, we are in the midst of developing appropriate reporting processes to comply with the enhanced disclosure requirements of recently issued FSP FAS 133-1 and FIN 45-1, *Disclosures about Credit Derivatives and Certain Guarantees*, for year end 2008 reporting.

Given the FASB's goal of consistency and increased transparency among industry participants we believe that a one year delay in the effective date of SFAS 163 is in the best interests of investors. As previously mentioned, we will implement the required FAS 163 accelerated disclosure as required by paragraphs 30(g) and 31 as of September 30, 2008 and going forward. Since the end of last year the industry has significantly been expanding its disclosure on loss reserves, watch list credits, and other relevant data. In addition, a higher level of consistency has been achieved throughout the industry with respect to claim liability recognition as the use of general and/or portfolio reserves among firms has become much less relevant in the current credit crisis.

We appreciate the opportunity to voice our concerns on the implementation timeframe of SFAS 163 and would be available to discuss further at your convenience. Please feel free to contact me at 212-208-3177.

Sincerely,

Sean Leonard

Sean Leonard
Chairman
AFGI Financial Affairs Committee

cc: Mr. Russell G. Golden
FASB Technical Director