

Financial Accounting Standards Board
Technical Director



LETTER OF COMMENT NO.

9

Regarding : FSB FAS 107A
Due : January 15, 2009
By : Dr. Joseph S. Maresca CPA, CISA

Colleagues,

Thank you for the opportunity to critique this issuance.

Details follow:

GENERALLY, the issuance seeks to accomplish the following:

- 1) Improve the quality of information and comparability of GAAP and IFRS.
- 2) Disclosure of pro-forma income from continuing operations
- 3) Reconciliation of reported income from continuous operations
to proposed pro-forma adjusted income from continuing operations under
fair value and incurred loss basis for financial assets.
- 4) Application is intended for INTERIM and the ANNUAL REPORT after 12-15- 2008

Critique:

The Statement seeks to establish comparability between GAAP and IFRS.
Some of the issues are difficult in any event. Timing differences in the
valuations and unpredictable market conditions make the Statement
burdensome during a deflationary period. Unrealized gains and losses
for securities as Available for Sale are excluded from earnings
in Other Comprehensive Income until realized or impaired.

In today's environment, significant increases in the VIX index may
coincide with wild swings in the markets; thereby creating instability
for fair and consistent valuation purposes. 100 day moving averages
or 200 day moving averages can provide a good indicator as to
levels of market resistance which may impact stock valuations- particularly at INTERIM.
The dispositive measurement metric is the 100 or 200 day MOVING AVERAGE because
this statistic provides a fair weighted average which is both understandable and predictable
within a relevant range.

13F filings with the Securities and Exchange Commission can
alter investor perceptions based upon adverse content in the filings themselves.
There may be a time lag between the adverse 13F filing having been received by the SEC
and the price of the stock suffering once sophisticated investors have digested the
adverse content in the SEC filing itself.

Loan impairment may be taken from the present value of future
cash flows discounted at the loan's effective interest rate.
In the current environment, the certainty of payback is a
critical metric which can impact the expected future cash flows
either positively or adversely. (Statement 114)

Certain derivative transactions present unique collection problems. i . e .

- o structured mortgage pools
- o bundled mortgages
- o synthetic CLO to sell off risk attached to asset portfolios

Besides, the bundling of structured mortgage pools places the transaction more in the nature of a security .

The Sixth Circuit Court of Appeals interpreted the duties imposed on banks that market derivative products. In so doing, the Court rejected a duty of appropriateness. The Court said in essence- "Let the buyer beware ! " End users should not rely solely upon the advice of their counterparties (absent a specific and unambiguous agreement not subject to interpretation or alternative legal arguments) .

The opinion has important implications for end users and marketers of derivative products because the Sixth Circuit determined that there was no legal authority to support a claim that a seller of derivatives owes a duty of APPROPRIATENESS to an end user. The opinion sets forth a basic tenet of the over the counter derivatives markets. That is, swaps are principal to principal transactions and, thus the end users are responsible for securing their own independent advisors in the securities art to assist in evaluating rights, duties and liabilities in proposed transactions.

[Source: Power and Telephone Supply Co. v. Sun Trust Banks, Inc. 2006 USA App. LEXIS 13087 , 2006 FED App. 166P , 6th Circuit TENN. . 2006]

Specific types of exotic derivatives are as follows:

- o interest swaps
- o currency swaps involving the national currency and/or foreign currencies and bourses
- o equity options
- o credit default swaps
- o commodity hedges
- o structured mortgage pool transactions
- o market value swaps
- o synthetic CLOs (restructurings may not be a credit event)

Under the Basle Accord, banks must set aside capital to cover risks taken with loans or other transactions. If the loans are taken off the balance sheet (as in a CLO) , banks are no longer required to cover the loan's risk with capital. Capital is freed to make more loans .

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