



LETTER OF COMMENT NO. 21

We appreciate this opportunity to provide comments regarding the proposed FASB Staff Position FSP FIN 48-b (the FSP) to defer the effective date of FASB Interpretation No. 48 (FIN 48) for nonpublic companies to fiscal years beginning after December 15, 2007. As stated in the FSP, to avoid complexity the Board decided to apply the deferral of FIN 48 to all nonpublic enterprises, as that term is already defined in FAS 109, which includes all private companies, pass-through entities, and not-for-profit organizations. Based upon the discussion during the November 7 Board meeting, the intent and purpose for the deferral was to provide more time for nonpublic enterprises to better understand and implement FIN 48. As a private company we wholeheartedly agree with the intent behind the deferral, and we do need additional time to better understand and implement FIN 48.

Unfortunately, the FASB press release on January 8 has seemingly created a trap for the unwary by stating that "the provisions of Interpretation 48 have been adopted if the nonpublic entity has issued financial information in accordance with U.S. GAAP to third parties." Although the press release states that the amendments contained in the FSP clarify this point, we do not agree if application of the press release statement means that if a nonpublic company has issued any 2007 interim GAAP financial information it has effectively adopted FIN 48. Paragraph 6 in the Scope Section of the FSP specifically states, "A nonpublic enterprise that adopted the provisions of Interpretation 48 before the issuance of this FSP must continue to apply the provisions of Interpretation 48." Based on this statement, it would seem that the definition of "adoption" encompasses an affirmative act on the part of the enterprise, through the use of the appropriate accounting in both the income statement and the balance sheet, as well as by making the related disclosures. We believe there is a significant difference between the press release and Paragraph 6, particularly as it relates to the "implied" adoption of a significant accounting policy. It is difficult to believe that "adopted" as used in Paragraph 6 would also include the issuance of any 2007 interim GAAP financial information that makes no mention of FIN 48.

We believe that statements contained in Paragraph 7 of the FSP, which effectively amends paragraph 22 of FIN 48, is more consistent with the statement in the press release and that it provides further clarification to the intent of the FASB by stating "Earlier adoption is permitted as of the beginning of an enterprise's fiscal year provided the enterprise has not yet issued financial statements or information to third parties, including financial statements or information for any interim period, for that fiscal year." It would be more appropriate to restrict the ability of a nonpublic enterprise, or any enterprise, from making an after-the-fact adoption of an accounting method or policy when the financial information that it has already issued to third parties did not effectively and affirmatively adopt the new method of accounting.

If the FASB believes that the mere issuance of 2007 interim GAAP partial financial statements or other financial information without any reference to FIN 48 should be considered to be the "adoption" of FIN 48 such implied adoption would clearly be inappropriate and it would put the users of such GAAP financial information at a significant disadvantage. There should never be an "implied adoption" of a significant accounting method, particularly when the adoption relates to a change in method such as FIN 48 which provides for a cumulative effect adjustment and significant disclosures.

The decision by the Board on November 7 to defer the effective date of FIN 48 for nonpublic enterprises was based on a number of good reasons to do so, and those same reasons continue to apply in this case. If nonpublic enterprises did not have sufficient time to understand and implement FIN 48 in November there is even less time now. An eleventh hour change in the rules, or at least the interpretation and application of those rules, makes no sense and it clearly puts the users of the financial information at a disadvantage. There is simply no reason to restrict the deferral of FIN 48 for nonpublic enterprises at this time.

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