



LETTER OF COMMENT NO. 24

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File reference: Proposed FSP FIN 48-b

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, if interpreted broadly, has seemingly created a trap for certain private companies, 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." The press release states that the amendments contained in the FSP clarify this point. However, if the press release statement is interpreted broadly to mean that a nonpublic company has effectively adopted FIN 48 if it has issued any 2007 interim financial information prepared on a GAAP basis, most nonpublic companies, including many Pass-Throughs and non-public companies, will be pushed to adopt FIN 48 instead of defer its implementation. Specifically, certain nonpublic companies such as ours issue limited interim financial information to third parties without any reference to GAAP or the affirmative action of adopting a particular accounting pronouncement. 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 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

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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 is certainly appropriate to restrict the ability of a nonpublic enterprise, or any enterprise, from deferring the adoption of an accounting method or policy when the financial information that it has already issued to third parties affirmatively adopted the new method of accounting.

We do not believe that the mere issuance of 2007 interim partial financial statements or other financial information prepared in accordance with GAAPthat excludes specific reference to FIN 48 or an affirmative statement that the information was prepared in accordance with GAAP should be considered de facto "adoption" of FIN 48. Furthermore, it is our view that the actual concept of an "implied adoption" of any 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) is not appropriate

On November 7, 2007 the FASB Board released its decision to allow deferrals of FIN 48 for non-public entities. Industry placed a great deal of reliance on this late breaking decision as is evidenced by the following sources, just to name a few:

- http://www.cbh.com/n regbulletin-fin48ext.php
- http://mpws01.rsmi.com/Network/rsmmnet_pub.nsf/showpages/news1
- http://www.bracewellgiuliani.com/index.cfm/fa/news.advisory/item/736a58b6-7e4c-45d5-84f4-b2de10e09056/FASB_Delays_Effective_Date_of_FIN_48_for_Most_Nonpublic_Entities.cfm
- http://www.grantthornton.com/staticfiles/GTCom/files/services/Audit%20and%20assura nce%20services/Assurancepublications/OntheHorizon/Oct_Dec_2007_On_the_Horizon/Actual_files_Oct_Dec_2007/Grant%20Thornton%20OTH_11_07_07_SE.pdf

While not yet finalized, industry nonetheless needed to rely upon FASB direction, which according to the minutes of the November 7, 2007 meeting included:

The Board agreed with staff's recommendation to defer the effective date of Interpretation 48 for all non-public entities, including not-for-profit entities, to fiscal years beginning after December 15, 2007. Non-public entities that have already adopted the provisions of Interpretation 48 would not be eligible for deferral.

While this appears to be very clear language in both reference to the FSP and the concept of deferral, and the FASB board decision to defer was based on very sound reasoning. However, the ensuing discussion with independent auditors has resulted in many questions. If such releases cannot be substantially relied upon, then the FASB does a great disservice to its constituents. To

ask industry at this late date to adopt this broader Interpretation puts an unfair, and in many instances, an unrealistic burden on both preparers and auditors of the financial statements.

Sincerely,

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