LETTER OF COMMENT NO. 60

CMSA

COMMERCIAL MORTGAGE SECURITIES ASSOCIATION

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October 9, 2008

VIA EMAIL

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

File Reference: Proposed FSP FAS 157-d (the "Proposed FSP"), *Determining the Fair Value of a Financial Asset in a Market That is Not Active*

Dear Mr. Golden:

The Commercial Mortgage Securities Association ("CMSA")[1] appreciates the opportunity to comment on the Proposed FSP and recognizes the priority you have placed on producing this guidance in an expedited fashion.

We are in the worst credit market crisis in memory. More certainty as to the interpretation of the guidance of FASB Statement No. 157, *Fair Value Measurements* ("FAS 157") in this impaired market will have a powerful positive impact. We appreciate FASB's efforts to address this problem through the issuance of additional guidance in the form of the Proposed FSP.

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[1] CMSA is dedicated to promoting the ongoing strength, liquidity and viability of commercial real estate capital market finance worldwide. With commercial mortgage backed-securities ("CMBS") in the U.S. currently valued at almost $1 trillion, CMSA acts as the voice of the marketplace encouraging the development of consensus positions among its diverse membership which encompasses the full range of market participants, including investment banks and commercial banks, rating agencies, insurance companies, service providers and investors at all levels of risk.

CMSA has reviewed the Proposed FSP, and CMSA has some comments and suggestions to assist FASB in this effort as described below.

Comments on the Example

We have two comments with respect to the example provided in the Proposed FSP.

First, CMSA encourages FASB to supplement the discussion in paragraph 9b of the Proposed FSP to provide additional clarity that observable market data, and the liquidity premiums implied by such data, may not be determinative in an inactive or disrupted market of exit value and that, in such circumstances, it may be appropriate to give more weight to management's internal assumptions about future cash flows and appropriately risk-adjusted discount rates in determining fair value. Our concern is that the use of such observable market data and the attendant liquidity premiums which would be derived from such data, in an inactive or disrupted market (such as one in which there is extraordinarily low trading volume), should not be deemed determinative of fair value because it may not reflect an "orderly transaction," which is a basic assumption for determining exit value pursuant to FAS 157.

Second, we believe that the example should be clarified to state explicitly that the midpoint between two indications of the appropriate rate of return on an asset is not necessarily the default number that should be used in making a determination of fair value of the asset. CMSA is concerned that without a more explicit statement in that regard preparers of financial statements may be inclined to use such a midpoint only because the example in the Proposed FSP uses an approximation of the midpoint between the two indications of appropriate rate of return discussed in the example. While CMSA appreciates the illustrative power of the example, we do not want it to be misinterpreted as suggesting a mathematic midpoint convention that replaces the judgment of the preparer of the financial statement.

Additional Concern with FAS 157

CMSA has an additional concern with respect to other aspects of FAS 157 as described below, and we encourage FASB to explore our concern and address it in another FASB Staff Position or other form of guidance. CMSA requests the opportunity to meet with you and discuss our concern in more detail.

CMSA encourages FASB to analyze and clarify the impact of using synthetic instruments to determine fair value for cash assets. Specifically, CMSA is concerned with the use of the CMBX index (as described below) as a proxy for observable cash market data for purposes of determining the fair value of cash assets. CMBX is a synthetic credit default swap market, which is comprised of a group of indexes made up of tranches of CMBS with different credit ratings. CMSA is concerned that the CMBX index is of limited utility for purposes of measuring performance (or expectations of future performance) of underlying cash positions in CMBS or other commercial real estate loan assets because there is a general disconnect between certain CMBX-implied deal-level losses and historical experience and because of the general inconsistency of implied losses across different tranches of CMBX. Therefore, it is likely that that CMBX spreads are simply a reflection of the risk premium investors demand to enter an illiquid synthetic market rather than a reflection of the fair value of CMBS. Accordingly, we believe that CMBX is not a good proxy for the fair value of CMBS and should not necessarily be a determinative factor in pricing these positions.

Thank you for your consideration of our concerns outlined above. CMSA would welcome the opportunity to meet with the Board or the staff to discuss these concerns or to answer any questions you might have. In addition, CMSA looks forward to the opportunity to continue the discussions regarding FAS 157 implementation and interpretation as we work through the current credit market crisis.

Sincerely,

Dottie Cunningham
Chief Executive Officer
Commercial Mortgage Securities Association

cc: The Honorable Christopher Cox, Chairman of the Securities and Exchange Commission