



LETTER OF COMMENT NO. 261

March 31, 2009

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



LETTER OF COMMENT NO. 300

File Reference: Proposed FSPs FAS 115-a, FAS 124-a & EITF 99-20-b and FSP FAS 157-e

Dear Mr. Golden:

The opportunity to comment on Proposed FSB FAS 115-a, FAS 124-a & EITF 99-20-b and FSP FAS 157-e is appreciated. In addition the Financial Accounting Standards Board ("FASB") is to be commended for expediting these important accounting considerations over the past few weeks.

Given the significant events and current conditions in our economy and capital markets, important prior unforeseen improvements to the accounting guidance for Fair Market Value and Other-Than-Temporary Impairment reporting have become increasingly apparent and urgently needed. I thank and encourage the FASB to act quickly on this matter and request consideration of the following comments:

- **Effective Date.** Please consider changing the Effective Date to permit for early and retrospective adoption of the FSPs at the option of the reporting entity. We believe a significant part of the financial industry representing a substantial portion of the affected assets are likely to be prepared to implement this for the results of operating periods ending after March 15, 2009, on a retrospective basis back to their last reporting date (e.g., those entities with a March 31, 2009, reporting date whose last reporting date was for December 31, 2008). Many entities, both large and small, have been addressing OTTI and FMV issues in prior reporting periods and have already had to prepare and evaluate their securities for both the credit risk and non-credit risk components and in addition they have significant other experience in evaluating credit risk in other financial instruments (e.g., loans). There may be a smaller set of reporting entities that may not be as well prepared operationally and would need the extra time to implement, but this may also be a much smaller proportion of the total assets being evaluated under the new FSPs as a whole and they could opt to implement the FSPs as you have originally proposed. In addition, to have a greater part of the year 2009 reported using the new FSPs would provide more consistent information to the users of the financial information through the year and serve a greater common good.
- **Separation of OTTI into Credit and Non-credit Components.** This proposed change is favored as presented as it meets a critical objective in improving the guidance by separating the credit and non-credit loss components so that a reporting entity can recognize the best and most appropriate estimates of future losses (either or both of the components as the case may be) to be experienced by a reporting entity when markets are inactive and under significant

liquidity strains. This change corrects the situations for the future whereas under current guidance there is the unintended effect of understating earnings significantly one period and overstating them in another potentially very distant period when the original OTTI is comprised of a significant amount of non-credit component loss.

- **Estimation of Credit Risk using Reporting Entity's Best Estimate.** This proposed change is favored when the reporting entities best estimate is guided by paragraphs 12-16 of FASB Statement No. 114 for all entities within the scope of FASB 115; this change is not favored when that guidance is provided by paragraph 12(b) of EITF Issue No. 99-20. It is believed that FASB Statement No. 114's guidance is operationally sufficient as to the provision of general guidance on the matter at this time even for those instruments within the scope of Issue 99-20.
- **Recognizing the Credit Component of OTTI in Income.** Recognizing the credit component of OTTI in current income using FASB 114 as the guidance for measuring that credit component is favored; however, it is proposed that it only be recognized in current income to the extent that the credit loss was not factored into the original cost to the reporting entity. Also, it is proposed that the amount of estimated credit loss should be adjusted from period to period and those adjustments, whether positive or negative, should be reflected in current income the same way as it was introduced originally to current income as a loss; and that this would apply to securities that are both Available-for-Sale and Held-to-Maturity. This is similar to the recognition of loan losses and hence beneficial to the user of financial information who then has similar instruments reported to them on credit loss similarly in this regard.
- **ANOTHER ISSUE: Credit Component Loss Reserves.** It is asked that the longer term issue of credit loss reserve accounting for the Credit Component similar to that for loans be considered in the future for review and consideration (i.e., should the loss reserve accounting requirements of FASB 5 and FASB 114 be applied to financial instruments within the scope of FASB 115). This issue need not be addressed at this time as the critical improvement of separating credit and non-credit loss components and reporting only the applicable loss component in current income is the first step being addressed in the proposals; however, the next step related to reporting how much of the Credit Component has been and has not been realized at each reporting period should be considered.
- **ANOTHER ISSUE: Prior Recognized Other Component.** To the extent that an OTTI was prior recognized in prior period earnings, we believe the reporting entity should have the ability under the revised guidance, at their option, to record in current income at implementation (or any time thereafter) of the revised guidance any portion of that prior OTTI recorded that was for a reason that does not exist at implementation of the new guidance. For example, if in a prior reporting period a reporting entity reported an OTTI of \$10, comprised of \$2 Credit Component and \$8 Other Component, then I would propose the \$8 Other Component be permitted to be recognized in current income to the extent it has not been already for other reasons. Current assessments of the Other Component would be assessed and recognized according to the new guidance being set forth. Some may say this proposal will result in an unreasonable recognition of income at implementation, but this can only be so because there was a prior equally unreasonable recognition of loss and hence this prior unreasonable recognition of loss should be corrected.
- **Recognizing the Other Component in OCI.** Recognizing the Other Component (other than credit) in OCI at this time is favored, but only if the asset is recorded as Available-for-Sale and NOT if the asset is designated as Held-to-Maturity. This revised proposal would permit a reporting entity to report on its financial instruments similarly between those within the scope of FASB 115 and a loan. This is desirable because a loan and Held-to-Maturity security have

similar enough legal and financial attributes; and reporting on them similarly in the Income Statement and Balance Sheets would be benefit to the user of the financial information. The extent a loan and Held-to-Maturity security are different can largely be disclosed outside of the Income Statement and Balance Sheet in the form of fair market value disclosures and notes to the financial statements the way it is required now, subject to the proposed changes in the applicable guidance here.

- **Held-to-Maturity Security OCI to be Amortized.** I would propose no portion of a Held-to-Maturity's Fair Market Value be recognized in OCI; and hence the OCI should not be amortized. I would propose a Held-to-Maturity security that has or had OTTI should only have record through current income its Credit Component and that component should be adjusted through current income as the estimate of its amount changes. To the extent an OTTI was recorded for a Held-to-Maturity security in a prior period before the new guidance and for the amount the OTTI represents the Other Component, such Other Component should be reversed through current income at implementation of the new guidance. This would make a Held-to-Maturity more reasonably comparable to a loan not intended to be sold as well and hence will improve reporting of financial results and conditions similarly for instruments of similar legal and financial attributes.
- **Ability to Hold and Intent to Sell.** It is favored to consider both the ability to hold an instrument and the intent to sell a financial instrument in determining if Other-Than-Temporary Impairment exists. The intent to sell has been suitably addressed in prior guidance. The ability to hold a security may depend on such matters as the current status of the assets financing and how likely future financing will be available for the asset through a period to recovery the fair value, based on the reporting entities best estimates and its managements' judgment.

I thank the FASB for taking the bold step of diligently fostering and pursuing appropriate changes in the accounting guidance being proposed and I also thank FASB for its consideration of my views.

Sincerely,

Patrick Straka

Patrick Straka is currently the Senior Vice President, Chief Investment Officer of CIB Marine Bancshares, Inc., Pewaukee, Wisconsin. His comments represent his alone and are not made for on behalf of CIB Marine Bancshares, Inc.