



April 1, 2009

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

File Reference: Proposed FASB Staff Position FAS 157-e, Determining Whether a Market Is Not Active and a Transaction Is Not Distressed

Dear Mr. Golden:

MBIA Inc. appreciates the opportunity to comment on the Proposed FASB Staff Position FAS 157-e, Determining Whether a Market Is Not Active and a Transaction Is Not Distressed, (the "Proposed FSP"). MBIA provides financial guarantee insurance and other forms of credit protection, as well as investment management services to public finance and structured finance issuers, investors and capital markets participants on a global basis.

In these difficult times, we commend the FASB for providing additional clarification on how to fair value in inactive and distressed markets. MBIA Inc. believes that FSP FAS 157-3, Determining the Fair Value of a Financial Asset When the Market for That Asset is Not Active, provided additional guidance that supported the use of level 3 inputs, even when level 2 inputs were available but not considered representative of fair value in an active market. We supported the issuance of FAS 157-3 and found it useful in determining fair values of some of our financial instruments, both assets and liabilities, which are not traded. Our comments are focused in the following areas:

## Scope

We request that the Board expand the scope of the Proposed FSP to also include financial liabilities, which have similar valuation issues and concerns in the current inactive markets as financial assets. In addition, for certain derivatives, they can be either an asset or liability and it would be inappropriate to have different valuation principles. This is further supported when the Board decided that the final FSP on measurements of liabilities will require that practitioners generally use the same approach to valuing a liability under Statement 157 as used for an asset. The exception is that restrictions on the transfer of a liability will not affect the fair value measurement of that liability, whereas restrictions on an asset are considered when determining the fair value of that asset.

## Factors that Indicate that a Market Is Not Active:

We would request that more guidance be given regarding how to analyze the factors that determine an inactive market. It is unclear whether an entity would need to demonstrate that only one of the factors listed in the Proposed FSP is sufficient to determine that the market is inactive. Many of the factors listed can also be present for certain investments, even in times of normal market activity, such as private placements and other illiquid assets. We encourage the FASB to provide more guidance in paragraph 12 that encourages, when applying judgments to determine the activity of a market, that factors affecting the market for the specific asset type be considered. It may also be beneficial to specify whether one or several of these factors must be present to consider a market active or inactive.

## Presumption of a Distressed Market:

We would also request that the FASB clarify the intention on the second step in the two step process of the Proposed FSP. It appears that the FASB is implying that an entity is not expected to perform any specific procedures in determining whether the two factors in paragraph 13 might exist, but rather a passive approach to obtaining this information is acceptable. This will result in a significant distinction between entities such as large financial institutions that are market makers, who will have much of the information required to be analyzed in step 2. Whereas passive investors, such as most insurance companies or non-market makers, will not have this information when evaluating whether a market is distressed. While it is common for various entities to have different levels of information when developing judgments, this Proposed FSP seems to provide a distinction for the availability of information and who has access in making a judgment on valuation. We don't believe this is the FASB's intention and request consideration of this issue and clarification so as to not impose unintended consequences.

Paragraph 15 indicates that in the event an entity determines that the quoted price represents an inactive and distressed market, the reporting entity must use a valuation technique other than one that uses the quoted price provided by a third party. In instances where a level 2 input (i.e., certain broker quotes or third party pricing services) were obtained, we believe that this information may be useful in determining margins for risk and liquidity that a market participant should consider, even in today's market. In any event, we consider all third party information relevant when determining our valuations. The Proposed FSP seems to indicate that an entity must use a valuation technique other than one that uses that quoted price without significant adjustment. We encourage the FASB to after the language to allow the use of the quoted price as an input into the determination of fair value, even in inactive and distressed markets, in the event that the entity believes that the broker price received is relevant information for the determination of fair value.

## Operational Concerns:

Finally, we do not believe that the Proposed FSP is operational for periods ending after March 15, 2009 (i.e., first quarter for calendar year end companies). As this date has already passed and the issuance of this Proposed FSP will be subsequent to the close date for calendar year filers, we request that the Proposed FSP be required for periods ending after June 15, 2009 with an option to be adopted earlier for those registrants that are ready to do so.

Thank you for considering our proposal and for the opportunity to contribute to the standard-setting process. Should you have any questions about our letter, please do not hesitate to contact Kelley Kortman, Vice President of Accounting Policy Group at (914) 765-3263 or myself at (914) 765-3557.

Sincerely,

Huy M. Tran

Managing Director

Deputy Controller and Head of Accounting Policy Group

MBIA Inc.