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Mr. Russell Golden
Technical Director
Financial Accounting Standards Board
301 Merritt 7
P.O. Box 5116
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LETTER OF COMMENT NO. 293

Via email: director@fasb.org

Re: Both the Proposed FSP FAS 157-e
The Proposed FSP FAS 115-a. FAS 124

LETTER OF COMMENT NO. 349

Dear Sir:

As a private investor, I appreciate the opportunity to comment on proposed FASB Staff Position FAS 157-e, *Determining Whether a Market is Not Active and a Transaction Is Not Distressed*, and proposed FASB Staff Position FAS 115-a, FAS 124-a, & EITF 99-20-b, *Recognition and Presentation of Other-Than-Temporary Impairments*, both issued for public comment on March 17, 2009.

My concerns have a slightly different focus than to tweak the current and the proposed rules, but rather to insure there is a business transparency allowing a stockholder to know what he owns, and what time and business changes may affect that ownership and its value.

The proposed changes can be a step in the right direction, but I fear that some of the clarity needed is buried in bureaucratic precedent and is not even being considered.

I see two simple issues:

One issue is very general: Accounting in the American business world starts with the premise that it is to reflect that of an "ongoing business," and balance sheet and income statement items must be reflective of that. This is to distinguish it from "liquidation accounting" which would reflect balance sheet and income statement items based on closing down or liquidating the business.

One of the very viable investment approaches can be that of basing a "worst case" valuation of a business using as much liquidation accounting as possible for balance sheet numbers. Benjamin Graham became famous for using a style of this that he called "net current asset" valuation, and this methodology created the basis for the investment approach adopted by a large number of portfolio managers including Warren Buffett. This liquidation type approach to investing has certainly served the marketplace by

bringing these investors into the marketplace at times when a security's trading prices might represent significant undervaluation, and thereby provide some market liquidity for sellers where little might otherwise be there. I could describe this investing approach as "vulture investing" – with no disparagement intended at all. While "vulture investing" may be a recognized approach to investing, it is important that what I'll call "vulture investor accounting" – or essentially "liquidation accounting" - should not be replacing "going concern accounting" in our nation's businesses. One trap I fear we have fallen into is to have our financial reporting influenced by the high profile investors, money managers, and hedge funds who want to invest "on the cheap" with the minimum of risk and would find "vulture investing" or "liquidation" accounting by companies useful to them to simplify their approach. Are we to have a marketplace where access to capital is done using liquidation accounting, and securities markets pricing levels are at that level as well? That surely makes no sense, but having 5% or 10% of securities trade at liquidation values or below may well almost always have to be true in a free marketplace, without judging whether is it desirable or not . (There is some history suggesting low single digit percentages occur in the U.S. marketplace, with higher numbers during bear markets.)

In the meantime, the majority of investors should be assured of being able to see a fair accounting assuming a going concern with numbers comparable to prior periods, and efforts at market modeling, vulture and liquidation pricing included as footnotes if known and meaningful.

The second issue is more specific, and addresses how the worst of "liquidation accounting" operates to destroy shareholder value, perhaps even permanently. I'll create an imaginary example, as perhaps that may be the best way to demonstrate current problems a shareholder can experience. EXAMPLE: A profitable community savings bank with a plain vanilla portfolio of home mortgages also has a mortgage backed security that represents several percent of its total assets. Because the mortgages within that small package are not officially FHA insured, for example, it has to be assumed that there could be some default experience over time within that package, and it becomes necessary to "model" those mortgages. I should not ignore the controversy or uncertainty surrounding different modeling choices, but I will, and just assume that a serious honest approach can be arrived at. For this example, modeling concludes that the package could experience a likelihood of 2% of the mortgages experiencing an element of default in the next several years. Because this would suggest a positive loss number, not zero, "market pricing" is mandated. Assuming the package's interest rate would give a valuation around par if no default issues, to simplify this example, then a valuation of 98% would understate the value as the 2% element of default is unlikely to result in that 2% being worthless, or only worth zero. However, for this mortgage backed security that used to trade in an active market, the only market now are bids from "vulture investors," and a trading market is all but dead. A bid is obtained of 70, meaning if this were sold, there would be a 30% loss. Such a number could easily represent an amount equal to a full year's earnings for the bank.

The loss is considered to be against capital directly, and even if recognized for tax purposes, is strange because it was not sold, and for this example cannot be sold without triggering other serious technical problems for the bank because it was and has to continue to be held in the "Not held for sale" portion of the bank's assets. This gets more bizarre. If the following month the bank would be offered 85 for this security, they cannot sell it without tainting their whole "held to maturity" portfolio, and they cannot revalue it either to reflect a 15% loss rather than a 30% loss. The rules say that recovery of the 30% discount can only effectively be done by an amortization process spread over the remaining life of the underlying mortgages (say 20 years) based on the timely payments of interest and principal fully made year by year. In other words, very slowly.

And the consequences? Where the value of investing in a business – the stock price - is based on what it earns, what it can earn over time, and what dividends it pays out, the loss here results in both regulatory pressure to restore capital as fast as possible, and to reduce or discontinue paying a dividend. While the difference between stock highs and lows in a given year can be 1/3, many stocks down 30% dropped to being down 60% or more upon news of a dividend omission. A long term shareholder of this stock who reasonably has included an element of dividend income in their spending and savings, will now have the risk of lower gross income as well as a lower sense of savings and portfolio value. Yet in fact the loss to value would probably be well covered using 2% rather than 30%, having earnings reduced by a few pennies, and not have called for this dividend omission.

As a further uncertainty, the bad news never ends – if a month later a comparable price of 65 % is reported, the 70% value has to be reduced to 65 %. Valuation can only go down, never up, in this portion of the "mark-to-market" world.

And to really destroy more of the much reduced market value that might be still remaining, the Government has created a recapitalization program – TARP – where the non-stock-owning regulatory people have vigorously promoted banks to take the Government capital. Probably every bank has received many aggressively well intentioned phone calls and visits from their multiple regulators to take this funding. Some conversations have even gone too far in their friendly aggressiveness. The uncertainty has even suggested further more extreme "liquidation accounting" changes, suggesting that the 1991 era FDIC Improvement Act did not fulfill its original mandate to have virtual "liquidation accounting" for the whole asset side of the balance sheet, irrespective of accounting costs, etc., and there is confidence eroding rumor that there is serious regulatory evaluation of imposing that.

The result has been a further hit to the stockholding investor, with the Government TARP funding requiring dividend roll backs or no increases for 3 years, significant long term option grants to the Government at depressed prices, and a ban on stock repurchase to offset these option grants or other reasons.

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While it is not the purpose of these comments to FASB to expect that the FASB can design a full solution, the "going concern" picture that the financial statements need to clarify and the illogical valuation picture of my "mark-to-market" example both need to be corrected as soon as possible. To do otherwise is to continue a stockholder deception, a destruction of stockholder market value, and in the extreme to even cause good banks to be closed or merged by the regulators.

Thank you for your consideration.

Sincerely,

Ed Fraser

Postscript: Lastly, as an overall criticism of the current regulatory approach at all levels, the individual investor gets scant help. Although whether directly through an individual portfolio or through a company stock investment program, or more indirectly through a mutual fund or equity involved investment via an insurance product, pension plan, etc., the American population are economic stakeholders in the stock market in a big way. However, the financial reporting focus is not geared toward a methodology that clearly reports what a shareholder's share represents, either in terms of risk or value. If confidence building is important, change is called for. Virtually everything is reported and presented as enterprise metrics. These are certainly the key numbers for the Investment Bankers, Regulators, Accountants, and those doing business with the enterprise, but it leaves the shareholders with poor disclosure. What do their shares actually own? As a key example, understanding the number of shares outstanding to even figure out a "per share picture" for a shareholder cannot usually be deduced from the financial reports a shareholder sees. First, if accurately reported, these numbers are often outdated before they are printed. How they have changed, will change, or might change based on company developments and stock price changes cannot usually be known without a specific call to a company asking detailed questions. Even now, the reporting detail on the TARP dilution is poorly shown to shareholders. I do realize that more accurate reporting of this surely requires a matrix type presentation, along with the current sometimes fairly accurate approximation. But "sometimes fairly accurate" doesn't work well – currently the presentations don't allow for knowing if these approximations are approximately accurate, or if there is a significant dilution history and potential well buried in all the "enterprise reporting" smoke.