FSPFAS115A

LETTER OF COMMENT NO. 226

Sent: Tuesday, March 31, 2009 10:26 PM

To: Adrian Mills; Diane Inzano; Joe Vernuccio; Kristofer Anderson; Mark Trench; Meghan Clark; Peter Proestakes; Russell Golden; Vita Martin; Wade Fanning

Subject: FW: Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b

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From: Ken Biddick [mailto:kb@kbconsultinggroup.com]
Sent: Tuesday, March 31, 2009 8:28 PM
To: Director - FASB
Subject: Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b

I am an auditor and an expert witness in accounting and auditing matters for the last 30 years.

Public perception as well as Congress', is crafted by the media in all its forms. In general it seems that the public and market perceives FAS 157 as the Standard that has created current reporting issues (just his moment reiterated by CNBC's Cramer). FAS 157 was crafted (from my reading) with the forethought to be clear in avoiding the potential to set market pricing by applying fair values using inactive and/or distressed market valuations (a point that Chairman Herz has stated time and again). It seems that what hasn't been identified is by whom the misapplication of the Standard forced the use of these valuations that subsequently became a self-fulfilling prophecy. It is critical to approve both the proposed FSPs currently at issue for no better reason than to shape public perception. However, it is critical to approve this FSP, specific to the determination of OTTI, to stop the self-fulfilling prophecy.

This proposed FSP (FAS 115-a, FAS 124-a, and EITF 99-20-b) gets to the heart of the matter. By not forcing the recognition of unfavorable conditions at a measurement date that will never absolutely reflect what is best controlled by an organizations management, this proposed FAS needs to be approved and applied as intended. Auditors and Regulators need to step up and ensure that accounting standards report results and not create them.

My comments to the Boards questions:

1. More specific information is always going to enhance reporting. The issue is does this bifurcation matter or is it more important to specifically identify all the significant elements that determined that the present valuation WILL happen with reasonable certainty. My interpretation of this element is that the credit loss is best able to be identified with certainty and accounting accuracy than any of the non-credit reasons for impairment. If that is the case, I question the recognition of reasons that don't have the same degree of reasonable certainty or accounting accuracy. I am not in favor of putting some kind of probability percentage on qualifying conditions to determine OTTI. Although it makes the threshold clearer, as in so many other instances it creates a target to be manipulated. We seem to have been able to make these judgments with FAS 5, we certainly should be able to use that collective wisdom here.
2. I would suggest that clarification be incorporated regarding credit insurance instruments that stand in the place of the underlying collateral. To the extent that the reporting entity has purchased such protection and the counterparty can be assessed this enhancement in financial markets was not common at the time of FAS 114 and 99-20. Failure to address may result in unintended results.

   Regarding the recognition in income or comprehensive income goes to my response to question 1. It seems that we have gone the route of predicting the future in order to help the investing public see behind the Wizard's curtain. Consider that there are some real good tools to predict future results given the ability to confine all the variables within absolute boundaries. Problem as has now been revealed is that we cannot do so absolutely. I am most in favor of recognizing these best guesses in the bucket that was designed to be clear about their certainty (meaning that they are highly likely but not absolute but at least you know they exist and you'd better understand them and make your own, now informed decision). That bucket is the comprehensive income bucket.

3. THIS IS THE MOST IMPORTANT ENHANCEMENT THAT MUST BE IMPLEMENTED. My opening statement was in regard to this element. And I reiterate that Auditors and Regulators need to step up and ensure that accounting standards report results and not create them.
4. I am not in favor of being conservative to a fault. It seems that this brings up the issue that we weren't so sure in the first place but don't want to admit it. Fair value needs to work equally in both directions. It is not, as has been painfully realized, good practice to err on the downside only. There are many analysts, traders (generally shorts), and other earnings evaluators to bring attention to unreasonable upside fair valuations. Again, we need much higher vigilance by all who are there to protect the public interest to get in front of this bus before it can get moving. However, it is not equitable to forbid the bus to exist. I think that we need to provide disclosure to what our "certainty" is based and let folks draw their own informed decision. As in the VaR disclosures, it can be a false indicator, however it is very useful information to those who understand the intent and workings of such information.
5. As I mentioned in my opening remarks we need to change perception and time is of the essence.

Generally, I think the Board and staff did well to try and keep these matters as principles rather than get duped into making rules. It is clear that the past has developed expectations and behaviors that don't want to function effectively with principles. Please continue down the path of principles and when events such as this occur, use them to reinforce the principles by restating them over and over.

Respectfully Submitted,

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