

Crowe Horwath LLP
Member Crowe Horwath international

One Mid America Plaza, Suite 700 Post Office Box 3697 Oak Brook, Illinois 60522-3697 Tel 630.574.7878 Fax 630.574.1608 www.crowehorwath.com

September 14, 2010

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

Via Email to director@fasb.org

File Reference: No. 1840-100

Dear Mr. Golden:

We are pleased to comment on the Exposure Draft *Proposed Accounting Standards Update*, Contingencies (Topic 450), Disclosure of Certain Loss Contingencies (the ED).

We support the Board's objective of increasing disclosures about loss contingencies to assist users in better understanding the likelihood, timing and magnitude of future cash outflows related to loss contingencies. We believe many of the changes made to the previous exposure draft on disclosures of loss contingencies are an improvement over that document. However, we believe there are operational and audit related issues with the current ED which are described below. Those concerns focus on litigation contingencies.

Overall

The summary contained in the ED indicates that the FASB staff will continue to work with the Public Company Accounting Oversight Board (PCAOB), the American Institute of Certified Public Accountants (AICPA), and the American Bar Association (ABA), to identify and address any potential implications of the proposed requirements. We believe there are operational and audit related issues that need to be resolved prior to finalizing this ED. The proposed disclosures go beyond the information that can be subject to audit based on the current treaty with the ABA. The AICPA/ABA treaty forms the basis for legal counsel's response to the standard auditor request for information regarding litigation, claims and assessments. If management's disclosures are not corroborated by legal counsel, auditors will be unable to audit the information. We believe it is critical to resolve this issue through outreach with the ABA, AICPA and PCAOB prior to finalizing this ED.

Aggregation

The disclosures required by paragraph 450-20-50-1F may not be operational for all types of entities. For large multi-national companies, unless they are able to aggregate some of their litigation, providing these disclosures could result in pages and pages of disclosure that may not provide users with useful

Mr. Russell G. Golden Technical Director Financial Accounting Standards Board September 14, 2010 Page 2

information. For smaller entities, with one or only few litigation matters, they would generally be unable to aggregate, resulting in potentially providing information prejudicial to the entity.

The option to aggregate litigation does not provide clear requirements for how and what should be disclosed. While a class action lawsuit would likely be clear for purposes of aggregation, it is not clear what information a company should disclose on an aggregate basis. For example, it is not clear if any items from the individually material contingencies requirements should be disclosed. It would appear that none of the first three items would be applicable on an aggregate basis and it is not clear how items 4 and 5 would be applied on an aggregate basis. We recommend that an example of aggregation, outside of a class action lawsuit, be provided to illustrate the expected aggregate disclosures.

Rollforward Disclosure

The ED requires a rollforward of the amounts recorded for contingencies for public companies. This requirement could also provide prejudicial information about the company's position, especially when there is only one item of litigation disclosed. If an entity only had one item of litigation, Example 1 in the implementation guidance would provide the other party the minimum amount the company believes is probable regardless of the stage of the litigation. We believe the rollforward disclosure could potentially be prejudicial as many times the amounts recorded by an entity are not publicly available.

This requirement of the ED also requires the rollforward to provide the amount of cash or other forms of settlements during the period. Our experience is that many settlement agreements require their terms to be subject to confidentiality by both parties. If an entity only had one item of litigation, this disclosure requirement would result in the entity violating the confidentiality terms provided in its settlement agreement in order for its financial statements to be presented in accordance with generally accepted accounting principles. We believe this is another matter that the FASB staff needs to resolve with the ABA, AICPA and PCAOB.

Effective Date

We believe the proposed effective date does not provide sufficient time to address matters with the ABA, AICPA and PCAOB, and resolve operational issues presented in the ED. We also believe preparers will need more time to adequately prepare for the disclosures required by the ED and therefore recommend deferring the effective date for one year, for years ending after December 15, 2011 for public entities and for one year after that date for nonpublic entities.

Other

The disclosure requirement in 450-20-50-1F.f.2. uses the term "nonprivileged information" that should be disclosed for remote contingencies. It is not clear if this term is intended to be the same as publicly available, some subset of that information, or something different. We believe this term should be defined, assuming the requirement to disclose remote contingencies remains in the final standard.

Please contact James A. Dolinar should you have any questions.

Very truly yours,

Crowe Horwath LLP

Crow Howath LLP