AMSOUTH

Letter of Comment No: 51
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September 12, 2005

Technical Director – TA&I-FSP
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: Proposed FSP 13-a, Accounting for a Change or Projected Change in the Timing of Cash Flows Relating to Income Taxes Generated by a Leveraged Lease Transaction

Dear Technical Director:

AmSouth Bancorporation ("AmSouth") appreciates the opportunity to comment on the above-referenced FASB Staff Position (the proposed FSP). AmSouth is a regional bank holding company with $50 billion in assets, more than 680 branch banking offices and over 1,250 ATMs. AmSouth operates in Florida, Tennessee, Alabama, Mississippi, Louisiana and Georgia. AmSouth is a leader among regional banks in the Southeast in several key business segments, including consumer and commercial banking, small business banking, mortgage lending, equipment leasing, and trust and investment management services.

AmSouth submits the following comments on the Issues outlined in the proposed FSP and raises some operational issues for the Board's consideration.

Issue 1

AmSouth agrees with the Board's position that the scope of the proposed FSP should be limited to leveraged leases if issued in its current form. Leveraged leases are complex forms of financing and are unique lease transactions. The objectives of lease accounting as currently written are intended to ascertain whether the risks and rewards of the property have been transferred to the lessee. It is AmSouth's opinion that income taxes are an incremental/inconsequential benefit of the transaction in comparison to the use of the underlying property in leasing transactions other than leveraged leases; not to mention that such cash flows do not occur between the lessor and lessee. Cash flows paid to/received from third parties should have no bearing on other lease transactions under FAS 13 (as evidenced by the exclusion of property taxes and maintenance fees paid to the lessor from the determination of lease classification).

Issue 2

AmSouth does not agree with the Board's conclusion that assumptions regarding the timing of cash flows related to income taxes should be accounted for in accordance with paragraph 46 of FAS 13. AmSouth also does not agree with the Board's conclusion that a leveraged lease must be reclassified if, at any time, a revision of an important assumption requires recalculation of the lease and results in the lease no longer qualifying as a leveraged lease.

Paragraph 46 of FAS 13 requires that all important assumptions affecting estimated **total net income** from a lease be reviewed at least annually. If revisions are necessary to an important assumption such that estimated **total net income** is materially changed, the leveraged lease must be recalculated from inception and the revised net investment must be adjusted. Under the proposed FSP, however, a recalculation of the lease would be required if there is a change in the timing of the cash flows even though there is **no change** in the **total net income** generated over the term of the lease. Therefore, we believe that the proposed FSP is not merely offering implementation guidance or a narrow/limited revision to GAAP. Rather, we believe it is amending and rewriting existing GAAP. Additionally, we believe that the proposed FSP will force entities to recalculate their leveraged leases numerous times to incorporate even slight changes in the assumptions even though the changes will have no impact on the total income of the lease. In today's environment (i.e. internal control attestations under Sarbanes-Oxley) slight changes will require the lease

model to be recalculated to prove that the change is not material. The interpretations of the Internal Revenue Code and state tax statutes change frequently, and there are varying degrees of subjectivity inherent in the examination process, both of which could give rise to changes in the assumptions of a lease and often are not resolved for many years. The proposed FSP has the potential to require a lessor to take a charge to the income statement only to recognize that charge as income in the later periods of the lease. For this reason, we believe the proposed FSP results in unreliable financial reporting by introducing unnecessary complexity with little to no corresponding increase in transparency of leveraged lease transactions.

Paragraph 42 a-d of FAS 13 defines the characteristics of a leveraged lease, indicating that if a lease meets such criteria at inception of the lease term, such a lease should be classified as a leveraged lease. Under existing GAAP the re-evaluation of a lease as capital or operating is generally not required unless the lease is modified. Changes in the timing of cash flows from a leveraged lease do not constitute a modification. By requiring a re-evaluation of a leveraged lease due to a change in the timing of cash flows related to income taxes, the proposed FSP would create inconsistencies in lease accounting and amend existing literature. Leveraged lease transactions are very long-term in nature, typically 30 years, and a lessor enters into them for the overall economic return over the life of the lease. Requiring a review and possible change in classification each time one of the assumptions changes could result in significant, unforeseen accounting consequences in a lessor's financial statements if the changes result in the reclassification of a lease, which would reduce the reliability and transparency of financial statements. Typically, reclassification of a lease from leveraged to direct financing will result in the recognition of a loss because the investment in a direct financing lease will be lower than that of a leveraged lease. Additionally, since the debt in a leveraged lease is reported net,, reclassification would require a gross up of the balance sheet to reflect the debt as a liability. Such an outcome will result in less consistency and comparability between the periods of a lessor's financial statements and thus less reliability and usefulness to financial statement users. AmSouth recommends the Board require a lease that qualifies as a lease eligible to be accounted for under FAS 13 should retain that classification unless there is a material change in an assumption that should have reasonably been known at the time that the lease was recorded (provided that the lease was entered into in good faith and believed to conform with the Internal Revenue Code at inception). A lessor in a Lease In, Lease Out (LILO) or Sale In, Lease Out (SILO) transaction would not have known that its assumptions about the tax cash flows would have been changed until the IRS made its official pronouncements many years after transactions were closed.

Issue 3

AmSouth does not agree with the Board's conclusion that interest and penalties assessed by taxing authorities should be included in the cash flows for recalculation purposes. Taxing authorities assess interest on changes in tax from a "global" perspective for a given tax year, meaning that the tax on the net effect of all adjustments for a year, both increases and decreases to taxable income, are aggregated and utilized as the base upon which interest is calculated. It is conceivable that a taxpayer could have adjustments to leasing transaction deductions that result in additional tax, but then also have significant adjustments that, when aggregated with all of the other adjustments for the year, result in the taxpayer being due a refund of tax and interest from the IRS. In applying the proposed FSP to this situation, the taxpayer would be required to calculate interest on an estimated tax adjustment for a particular lease. The taxpayer would then include the payment of that interest as a cash outflow in the recalculation of the lease when in fact the taxpayer may never pay the interest considered in the revised leverage lease analysis and may actually receive a refund for the tax year upon conclusion of the examination. Including a "hypothetical" interest cost that a taxpayer may never pay as a cash outflow will distort the economics of the lease.

Furthermore, due to the protracted nature of the negotiation process with IRS Appeals, the estimates of cash flows related to interest and penalties could vary from period to period, which pursuant to the proposed FSP, would result in recalculations of the leveraged lease model many times over the terms of the leases if not within the same annual period. This volatility hinders an outside party's understanding of the economics of the leveraged lease transaction and introduces a high degree of subjectivity as a result of estimating outcomes with taxing authorities. Lastly, the inclusion of interest and penalties in this

assessment would result in disparate accounting treatment. There is no other instance in accounting literature in which the consideration of interest and penalties related to a subsequent tax settlement results in a rerun/reevaluation of the original transaction. For example, if a lawsuit occurs related to an entity acquired in a previous business combination the legal costs are expensed as incurred because they are not period costs and not recorded against goodwill from the original business combination transaction.

Other Issues

We request that the Board consider the operational issues associated with complying with the proposed guidance and postpone the effective date of the implementation.

First, there are many questions and issues to be addressed before implementation. As disclosed in AmSouth's June 30, 2005 Form 10-Q filed with the Securities and Exchange Commission, we have begun an initial evaluation of the impact of the proposed FSP. Through discussions with others in our industry, service providers are having difficulty addressing the level of detail to estimate cash flows related to taxes required by the proposed FSP.

Second, the proposed implementation date of the first fiscal year ending after December 15, 2005 does not provide sufficient time to completely and accurately calculate the impact of the changes that may need to be reflected in the financial statements for the year ended December 31, 2005. In order to meet this potential timeline, many assumptions will be based on incomplete facts, and, cash flow estimates will require an extensive effort to calculate and support, as well as the time necessary for the results to be fully reviewed by all parties involved in the process, including our Accounting, Tax, and Risk Management departments, as well as by our registered independent public accountants. Additionally, pursuant to the requirements of Section 404 of the Sarbanes-Oxley Act, the changes resulting from the requirements of the proposed FSP will need to be fully documented, reviewed, and tested prior to the issuance of the financial statements, adding another time-consuming step to the implementation process.

Again, we appreciate the opportunity to comment on this proposal. Thank you for considering our views. If you would like to discuss this matter in further detail, please contact me at (205) 801-0765.

Sincerely,

/s/Alton E. Yother

Alton E. Yother
Executive Vice President
and Controller