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June 14, 2004

Letter of Comment No: 3860
File Reference: 1102-100

Ms. Suzanne Q. Bielstein
Director of Major Projects and Technical Activities
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

Re: Exposure Draft: Proposed FASB Statement, Share-Based Payment: an amendment of FASB Statements No. 123 and 95 (File Reference No. 1102-100)

Dear Ms. Bielstein:

Hershey Foods Corporation (HFC) currently grants share options and is an interested party. We agree that share based payments are compensation and should be expensed. However, we disagree with the requirement of accelerated expense recognition for options with graded vesting. We also believe that the combination of prospective accelerated expense recognition for options with graded vesting and the decision not to permit retrospective application of accelerated expense recognition will result in reporting of financial information that is inconsistent and misleading to investors.

The misleading information results from utilizing different attribution methods to determine the amount of expense for options granted before and after the effective date of the statement. HFC issues options that vest over four years and has used the straight line method to calculate the pro-forma expense amounts reflected in our footnotes. If the new statement requires accelerated expense recognition on a prospective basis, and a continuation of the previously used (in our case straight line) method for previously issued grants, the expense we record in the three years after the effective date will be artificially inflated and non-comparable. We believe this would be inaccurate and misleading to investors. Additional detail is provided in the responses to Issues 9 and 13 below.

We believe that the straight line method most accurately reflects the expense pattern for graded vesting options as we discuss below. More importantly, we believe that the statement should be modified to permit retroactive application of the prescribed attribution method for grants occurring prior to the effective date of the statement, so that the recorded expense is based upon a consistent attribution method for all periods.

HFC is also concerned about the provisions relating to the reporting of cash flows as addressed in issue 16. We believe that the guidance in FASB Statement No. 95 properly reflects the nature of tax deductions resulting from option exercises and should be retained. Additional detail is provided in the response to issue 16 below.

Issue 9 relating to Attribution of Compensation Cost: For reasons described in paragraphs C89-C91, the Board concluded that this statement would require a single method of accruing compensation cost for awards with a graded vesting schedule. This proposed statement considers an award with a graded vesting schedule to be in substance separate awards, each with a different fair value measurement and requisite service period, and would require that they be accounted for separately. **That treatment results in a recognition pattern that attributes more compensation cost to early portions of the combined vesting period of an award and less compensation cost to later portions. Do you agree with that accounting treatment? If not, why not.**

Response to Issue 9 - HFC disagrees with the proposed method of expense recognition for options with graded vesting which attributes more compensation cost to early portions of the combined vesting period of an award and less compensation cost to later portions. We believe that a straight-line methodology adequately provides an allocation of compensation expense to each period that reflects the portion of the stock award that an employee is entitled to receive under the terms of the award. Further, a straight-line methodology is operationally easier to apply and readily understood by investors. We do not believe that there are sufficient reasons to use the accelerated approach in the proposed statement to warrant the additional complexities caused by this approach.

As an example, for options with graded vesting of 25% per year for 4 years, the year one expense would be 52.08% of the full value under the proposed statement vs. 25% as permitted by FASB Statement No. 123. If an employee leaves the company at the end of year 1, they would be entitled to only 25% of the option award and not 52.08% as would be inferred by the accelerated expense recognition provisions of the proposed statement.

Issue 13 relating to Transition: This proposed statement would require the modified prospective method of transition for public companies and would not permit retrospective application (paragraphs 20 and 21). The Board's rationale for that decision is discussed in paragraphs C157-C162. **Do you agree with the transition provisions of this proposed statement? If not, why not. Do you believe that entities should be permitted to elect retrospective application upon adoption of this proposed statement?**

Response to Issue 13 – HFC disagrees with the transition provisions of the proposed statement. We believe that investors will be better served if they can evaluate the impact of recording compensation expense if a consistent attribution method is utilized and the expense recorded is not distorted by utilizing different attribution methods based upon when options were granted. The current transition provisions result in the use of two different attribution models for the recognition of compensation expense in each fiscal period until all of the costs from options granted prior to the period of adoption are fully expensed. That approach would create unnecessary non-comparability in financial results that could be avoided by permitting the use of retrospective application upon adoption of the proposed statement.

We are aware that the Board considered transition alternatives in the context of the proposed requirements of the exposure draft of the proposed statement of financial accounting standards on Accounting Changes and Error Corrections issued December 15, 2003. The Board considered retrospective application the best transition method since it would provide maximum comparability between periods. However, the Board concluded as stated in paragraph C159 that retrospective application of a change in accounting principle to adopt this statement would be impracticable because it would require an entity to make estimates as of a prior period. We understand the Board's concern, however would ask that companies be allowed this alternative since we believe that the advantages of

retrospective application which are consistency and comparability of financial data between periods would be greater than the disadvantages.

The transition provisions utilizing the modified prospective method along with the accelerated expense provisions for options with graded vesting will result in 2005 expense for HFC which is not comparable to the Pro forma disclosures for 2004 and 2003 and not reflective of future expense levels if no other changes occur. As background, HFC grants share options which primarily vest at 25% per year for four years. Current disclosures under FASB Statement No. 123 attribute expense using a straight-line method over four years. The proposed statement would require expense recognition of approximately 52% of the expense in year 1, approximately 27% in year 2, approximately 15% in year 3 and approximately 6% in year 4 for options granted after 2004. Applying the proposed expense recognition methodology would require HFC to record 127% of the annual option cost in 2005 (25% of the cost of options granted in 2002-2004 plus 52% of the cost of options granted in January 2005). This is in comparison to 100% of the annual option cost (25% of the cost of options granted in 2002-2004 plus 25% of the cost of options granted in January 2005) under the methodology permitted in FASB Statement No. 123. This is illustrated in the table below:

Grant Year	Footnote disclosure		Expense Recognition				
	2003	2004	2005	2006	2007	2008	2009
2000	25%						
2001	25%	25%					
2002	25%	25%	25%				
2003	25%	25%	25%	25%			
2004		25%	25%	25%	25%		
2005			52%	27%	15%	6%	
2006				52%	27%	15%	6%
2007					52%	27%	15%
2008						52%	27%
2009							52%
	100%	100%	127%	129%	119%	100%	100%

Issue 16 relating to Cash Flows: For the reasons discussed in paragraphs C139–C143, the Board decided that this proposed Statement would amend FASB Statement No. 95, Statement of Cash Flows, to require that excess tax benefits, as defined by this proposed Statement, be reported as a financing cash inflow rather than as a reduction of taxes paid (paragraphs 17–19). **Do you agree with reflecting those excess tax benefits as financing cash inflows? If not, why not?**

Response to Issue 16 – We do not agree with amending FASB Statement No. 95, Statement of Cash Flows, to require that excess tax benefits, as defined by this proposed Statement, be reported as a financing cash inflow rather than as a reduction of taxes paid.

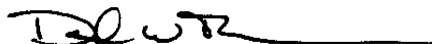
We believe that the following original guidance from paragraph 92 of FASB Statement No. 95 and also quoted in paragraph C139 of the exposure draft is still applicable, “The Board decided that the allocation of income taxes paid to operating, investing, and financing activities would be so complex and arbitrary that the benefits, if any, would not justify the costs involved”. This was in light of the fact

that FASB Statement No. 95 required an entity to provide a statement of cash flows that reported cash receipts and payments during the reporting period, classified according to whether they resulted from operating, investing or financing activities.

Paragraph C139 of the exposure draft also states that the Board continues to consider that conclusion from FASB Statement No. 95 generally accurate. However, it decided for the reasons discussed in paragraphs C140–C143 to make an exception for the effects of excess tax benefits. We do not believe that the reasons in paragraphs C140-C143 offset the concern about complexity. We also agree with the advocates of retaining the original provisions of FASB Statement No. 95 (as noted in paragraph C142 of the exposure draft) that a reduction in taxes otherwise payable is not a cash receipt and the related amount of taxes that would have been payable in the absence of a particular tax deduction is not a cash payment.

If I can provide any additional information, please contact me at 717 534-7586.

Sincerely,



David W. Tacka
Vice President & Chief Accounting Officer