

December 19, 2006



LETTER OF COMMENT NO. 3

Mr. Lawrence W. Smith
Director of Technical Applications and Implementation Activities - FSP
Financial Accounting Standards Board
401 Merritt 7
P. O. Box 5116
Norwalk, CT 06856-5116

Proposed FASB Staff Position No. 144-c
*Classifying and Accounting for a Depreciable Asset as Held-for-Sale When an Equity Method
Investment Is Obtained*

Dear Mr. Smith:

We appreciate the opportunity to provide you with our comments on the Proposed FASB Staff Position No. 144-c, *Classifying and Accounting for a Depreciable Asset as Held-for-Sale When an Equity Investment Is Obtained* (the "Proposed FSP"). We commend the FASB on its efforts to address the divergent views that exist in practice with regard to classifying and accounting for a depreciable long-lived asset when it is expected that once the asset is sold, the entity will retain an interest in the entity purchasing the asset(s) that will be accounted for as an equity method investment.

We support the need to address the issue in the Proposed FSP, however we question the initial premise that a proposed disposal transaction can qualify as held-for-sale when the seller intends to retain a significant investment. Paragraph 30 of Statement of Financial Accounting Standards No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* (FAS 144), states that a long-lived asset (or disposal group) to be disposed of by sale (including a "component of an entity") should be considered "held-for-sale" in the period in which all the prescribed criteria (i.e., FAS No. 144 paragraph 30a-f) for a qualifying plan of sale are met. More specifically, the criterion in paragraph 30b, in part, states the following:

"The asset (disposal group) is *available for immediate sale* in its present condition subject only to *terms that are usual and customary* for sales of such assets (disposal groups)..."
[Emphasis Added]

In the fact pattern provided in the Proposed FSP we question how the criterion in paragraph 30b could be satisfied prior to either entering into a binding agreement of sale or the actual sale of the controlling interest in the asset(s). Rather, we believe that the level of negotiations required for

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the selling entity to retain significant influence over the asset(s) being sold are such that they would call into question a conclusion that the asset(s) is available for immediate sale.

To further illustrate, one would expect the negotiation process for the sale of an asset(s) to be significantly different when an entity expects to retain significant influence over the long-lived assets(s) as compared to simply negotiating a sale of the long-lived asset (disposal group). For instance, the negotiation as to the retained ownership percentage that the seller may or may not want might be different among the various buyers competing for the asset group and presumably would also impact the selling price that each of the buyers is willing to pay for those assets. Additionally, decisions would need to be made between both the buyer and seller regarding the level and form of influence that the seller will have in connection with its retained interest. As such, because of these and other complexities we do question whether such asset(s) are available for immediate sale in accordance with paragraph 30b of FAS 144.

Accordingly, as an alternative solution we recommend that the Proposed FSP address the issue raised therein by stating that, until a binding sale agreement is reached, an asset(s) to be sold would not meet the held for sale criteria in paragraph 30 of FAS 144, if the selling entity intends to retain a direct or indirect interest in the entity that would result in the selling entity having significant influence over the asset(s) upon disposition of the controlling interest. Under this model, the long-lived asset(s) to be disposed of would continue to be depreciated until either a binding sale agreement is reached or the asset(s) is sold. Once this change is made, we would agree with the conclusions reached in the Proposed FSP.

Pursuant to existing practice, the retained investment by the selling entity (the value of which will be recovered through the underlying operations of the asset(s) subsequent to sale) is recognized on the balance sheet of the selling entity at the historical cost of the interest retained. To be consistent with this model, we believe the carrying value of the retained interest should reflect the depreciation charges recognized on the assets through the date it qualifies as held for sale in accordance with such definition as reflected in our comments above (that is, the date that a binding sale agreement is reached, assuming all other FAS 144 criteria are met) or the asset is sold.

We believe that our comments presented herein represent a view that is consistent with the provisions of FAS 144. However, if the Board would entertain the option of amending FAS 144 to address the scenario contemplated in the Proposed FSP, we would also support a model that would prohibit classifying an asset or disposal group as held for sale in circumstances when the selling entity intends to retain an equity method investment, until such time as the Board's in process project on Business Combinations (which, as drafted, would require re-valuing the retained interest at fair value upon sale of the controlling interest) is completed. Under such a model, the asset(s) would continue to be depreciated until the transaction occurs. We believe

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this approach is more consistent with the current practice of accounting for the equity method investment retained by the selling entity at historical cost.

We would be please to discuss our comments further with the Board members or the FASB staff at your convenience.

Very truly yours,

Ernst + Young LLP