PCPS
PRIVATE COMPANIES PRACTICE SECTION

January 15, 2009

FSP141RA

LETTER OF COMMENT NO. 8

Russell G. Golden, CPA
Technical Director
FASB
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

Re: December 15, 2008 Proposed FASB Staff Position (FSP) FAS 141(R)-a, *Accounting for Assets Acquired and Liabilities Assumed in a Business Combination That Arise from Contingencies*

Dear Mr. Golden:

One of the objectives that the Council of the American Institute of Certified Public Accountants (AICPA) established for the PCPS Executive Committee is to act as an advocate for all local and regional firms and represent those firms' interests on professional issues, primarily through the Technical Issues Committee (TIC). This communication is in accordance with that objective. These comments, however, do not necessarily reflect the positions of the AICPA.

TIC has reviewed the Proposed FSP and is providing the following comments for your consideration.

GENERAL COMMENTS

TIC applauds the Board for developing practical solutions to the issues raised by constituents with respect to FASB Statement 141(R), *Business Combinations*. TIC believes the proposed amendments will provide financial statement users with more useful information about contingencies arising from a business combination.

TIC's specific responses to the questions for respondents are provided below.

SPECIFIC COMMENTS

1. Will the proposed FSP meet the project's objective to improve financial reporting by addressing application issues identified by preparers, auditors, and members of the legal profession about Statement 141(R) related to the initial recognition and measurement, *subsequent measurement and accounting, and disclosure of assets and liabilities arising from contingencies in a business combination? Do you believe the amendments to Statement 141(R) in the proposed FSP are necessary, or do you believe the current requirements in Statement 141(R) should be retained?*

TIC agrees with the Board's rationale for not retaining the current requirements of Statement 141(R). The amendments in the Proposed FSP are necessary because there are numerous examples of contingent assets and liabilities that arise in business combinations that cannot be reasonably determined at the acquisition date. A contingent asset or liability should be recognized and measured at fair value only when fair value can be reasonably estimated.

2. In developing this proposed FSP, the Board decided to adopt a model that is similar to the requirements in FASB Statement No. 141, Business Combinations. However, the Board decided to provide additional guidance for assessing whether the fair value of an asset or liability arising from a contingency can be reasonably determined. Additionally, the Board decided to provide subsequent accounting guidance for assets or liabilities arising from contingencies initially recognized at fair value, which was not provided in Statement 141. Do you agree with the Board's decision to provide this additional guidance, or do you believe the proposed FSP should carry forward the requirements in Statement 141 without reconsideration, including not addressing subsequent measurement and accounting? Alternatively, do you believe the proposed FSP should require that the initial and subsequent measurement of assets and liabilities arising from contingencies in a business combination be on the same basis (that is, assets and liabilities arising from contingencies initially recognized at fair value should subsequently be remeasured at fair value)?

TIC supports the Board's decisions to add guidance in this Proposed FSP for assessing whether the fair value of an asset or liability arising from a contingency in a business combination can be reasonably determined and for the subsequent measurement of acquired contingent assets and liabilities initially recognized at fair value, with which we agree. The decision trees provided in Appendix A of the proposal were particularly helpful in understanding the new requirements of the Proposed FSP.

3. What costs do you expect to incur or not incur if the Board were to issue this proposed FSP in its current form as a final FSP? How could the Board further reduce the costs of applying the requirements without significantly reducing the benefits?

The costs would be lower since less valuation work would be required under this Proposed FSP.

American Institute of Certified Public Accountants
220 Leigh Farm Road, Durham, NC 27707-8110
800.CPA.FIRM • Fax 800.329.1112
ISO Certified

4. This proposed FSP includes guidance for assessing when the fair value of an asset or liability arising from a contingency in a business combination can be reasonably determined. Do you believe the guidance in paragraphs 10–13 provides clear guidance for assessing when fair value can be reasonably determined? If not, please explain what additional guidance is necessary.

Yes, the guidance is reasonably clear, given the judgment involved in these estimates.

5. Constituents have raised concerns about liabilities arising from contingencies being recorded indefinitely when there is no clear resolution of the contingency because the acquirer does not believe settlement will ever be required and the liability is not subject to cancellation or expiration. Will the proposed amendment to Statement 141(R) that allows for the derecognition of a liability arising from a contingency when new information is obtained that indicates it has become remote that the obligation will be enforced address these concerns? Do you believe this guidance is operational?

Yes, TIC believes the new guidance will address constituents' concerns and will be operational. TIC agrees that a contingent liability should be derecognized when the liability is settled, the obligation to settle is cancelled or expired, or new information indicates that the likelihood that the obligation will be enforced is remote.

6. Although not clear, the Board did not intend the subsequent measurement and accounting guidance in Statement 141(R) to require that a liability arising from a contingency be recorded at its acquisition-date fair value until the contingency is completely resolved in cases where the acquirer is released from risk over time or the acquirer fulfills its performance obligation over time. Do you believe the clarifying guidance included in this proposed FSP is operational for the subsequent measurement and accounting of a liability initially recognized at fair value?

Yes, the new guidance is operational and should clarify that the acquisition date fair value should be subsequently reduced if the acquirer is released from risk over time or the acquirer fulfills its performance obligation over time. Acquired warranty obligations would be one example where the new guidance in paragraph 19 of the Proposed FSP would apply.

7. Constituents have raised concerns about disclosing potentially prejudicial information in financial statements. Do you believe the revised disclosure requirements in this proposed FSP sufficiently protect sensitive information while providing users with useful information about contingencies arising from a business combination?

Yes. TIC believes the Proposed FSP has achieved the stated objective of providing financial statement users with appropriate disclosure without compromising an entity's position with respect to litigation or other sensitive matters.

TIC appreciates the opportunity to present these comments on behalf of PCPS member firms. We would be pleased to discuss our comments with you at your convenience.

Sincerely,

Stephen Bodine

Stephen Bodine, Chair
PCPS Technical Issues Committee

cc: PCPS Executive and Technical Issues Committee