August 14, 2008

Mr. Russell Golden Director of Technical Application and Implementation Activities Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116



LETTER OF COMMENT NO. 35

Re: File Reference Number 1590-100, Proposed Statement of Financial

Accounting Standards, Accounting for Hedging Activities, an amendment of

FASB Statement No. 133

Dear Mr. Golden:

Spirit Finance Corporation (the "Company") appreciates the opportunity to provide comments and observations on the Financial Accounting Standards Board's ("FASB") Exposure Draft of Proposed Statement of Financial Accounting Standards, Accounting for Hedging Activities, an amendment of FASB Statement No. 133 (the "Exposure Draft"). Spirit Finance Corporation is a Maryland corporation formed on August 14, 2003 as a real estate investment trust. We have over \$4 billion in assets, representing over 1,300 individual commercial properties located throughout the United States. We acquire real estate assets primarily through sale/leaseback transactions. Our risk management objective is to mitigate the risk of changes in the basis-related cash outflows (interest payments) on our forecasted permanent borrowing program. The Company has historically met this objective by entering into forward starting swaps that have been extremely effective at managing our interest rate basis risk.

As our risk management strategy is, and has been, specific to basis-related cash flows on a specific long-term borrowing program, we strongly disagree with the decision to disallow (except in the very limited circumstances provided for in the Exposure Draft) an entity from receiving hedge accounting treatment when hedging an individual risk such as this. We strongly oppose the elimination of hedge accounting treatment when a company hedges individual risks because attempting to hedge total interest rate risk introduces significant volatility into the financial statements because a portion of that risk is (1) unhedgeable in most cases and (2) oftentimes unobservable in the marketplace. Based on our knowledge of the credit markets, we feel certain that many of the theoretical inputs to the valuations models that would be necessary when hedging total interest rate risk would be based on rough "guesstimates" requiring a significant amount of judgment, and that the potential for earnings manipulation would be heightened significantly. We do not believe that such information is useful to users of financial statements, as it lacks reliability and representational faithfulness. Furthermore, it creates inconsistencies among companies hedging similar items.

Our hedging strategy is common and straightforward; however, with the proposed changes, our Company is very concerned that we will be unable to qualify for hedge accounting—even using a "reasonably effective" standard. We believe the associated earnings volatility resulting from entering into swaps that do not qualify for hedge accounting is likely to be extreme over short periods of time and largely misleading to our financial statement users since the earnings volatility will not be representative of the economic effectiveness of our risk management activities. We are also concerned that this will create inconsistencies as compared to our own historical results and as compared to other entities that may qualify for hedge accounting for the same derivative instrument.

The derivative instruments we use are not designed to hedge credit risk. We are no longer a public company and do not have publicly rated debt or credit derivatives based in our name. Therefore, the proposed requirement to develop a derivative that would provide cash flows that would exactly offset changes in interest rates and any changes in the spread that the lender or investor will ultimately charge (which is affected by our creditworthiness, risk of default, and basic supply and demand in the market at the time of issuance) adds significant complexity and cost to the process of qualifying for hedge accounting and assessing and measuring ineffectiveness. As part of the Company's risk management activities, we have not, nor do we wish to, hedge our own credit risk for many of the same reasons noted in the Alternative Views section of the Exposure Draft. In particular, we have serious concerns about the legal implications and potential accusations regarding self-dealing, concerns about the message that hedging one's own credit risk signals to the marketplace, and concerns about the potentially significant transaction costs if we could find a willing counterparty. Accordingly, we do not believe the proposed model is reasonable or operational in practice, and we strongly advocate that the FASB retain a "bifurcation-by-risk" approach to hedge accounting.

A related concern is that the new hedge accounting model is heavily based on unobservable and unreliable inputs. For many companies, including ours, reliable and up-to-date credit data is simply not readily available and we find that banks, and other knowledgeable parties that may have provided that data in the past, have become less and less willing to provide such data due to their concerns over potential liability. In addition, for hedges of forecasted debt issuances, information about the market supply and demand that will exist at the date we expect to issue our debt is quite difficult to predict. We are concerned, therefore, about the complexities of trying to model theoretical transactions in theoretical markets. It is certainly not a simplification relative to the current bifurcation-by-risk model and would generally not result in more accurate results. Therefore, we would be less likely to pursue this prudent risk management strategy because the earnings volatility will be entirely hypothetical, inconsistent with risks that are actually hedgeable in the marketplace, and unrepresentative of our actions.

The exposure draft, in our opinion, reflects a continuation of disturbing accounting pronouncement trends in which financial statements can be manipulated through appraisal estimates. Financial statements, in our view, should try to be factual, permitting others to interpret them through the footnotes and MD&A disclosures. Hedging is a good case in point. Were we not to hedge, the financial statements would not be impacted, while the Company could potentially be taking on greater market risks. To recognize

earnings volatility when prudent risk management hedges are utilized, but not when risks are unmitigated, is misleading and will drive companies to take unwise courses of action.

Finally, as a U.S. company with Australian investors, we are anxious to adopt international accounting standards as soon as that becomes an acceptable option in the U.S. Consequently, we are concerned about changing the hedge accounting model now in the U.S. only to have to change again in the very near future. Making significant changes to our systems, approaches, documentation, etc., as would be required by the proposed amendment, is very costly and usually underestimated. From our perspective, it seems that most of the practice issues and differences in interpretation surrounding hedge accounting have been resolved over the past several years, and we believe such a significant amendment to the hedge accounting model will only create a flood of new implementation questions and interpretation risk that would take years to clarify. Thus, we would strongly recommend either (1) retaining a bifurcation-by-risk approach to hedge accounting or (2) dropping the current project and pursuing a joint plan to work with the International Accounting Standards Board to develop a hedging model that will eventually apply under both U.S. GAAP and IFRS.

In summary, although we support the FASB's desire to simplify the accounting for hedging activities, resolve certain practice issues, and improve the financial reporting of hedging activities for users of financial statements, we do not believe that the Exposure Draft as currently drafted meets those objectives. Rather, we are concerned that certain of the proposed amendments will result in significantly increased complexity, increased costs, and less reliable and meaningful financial reporting. In addition, we believe that the proposed accounting will introduce a greater degree of judgment and interpretation risk that will likely result in less transparency in the financial statements. We thank the Board for its consideration of our comments and would be pleased to discuss these issues in more detail with the Board or staff at your convenience.

Sincerely,

Catherine Long
Chief Financial Officer

Spirit Finance Corporation