

Investors Technical Advisory Committee

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Via Email

December 30, 2008

Russell G. Golden FASB Technical Director Financial Accounting Standards Board P.O. Box 5116 Norwalk, Connecticut 06856-5116

Re: Proposed FSP EITF 99-20-a

Dear Mr. Golden:



LETTER OF COMMENT NO. 220

I am writing on behalf of the Investors Technical Advisory Committee ("ITAC"). The purpose of the ITAC is to provide independent technical advice, from the investors' perspective, to the Financial Accounting Standards Board ("FASB") and its staff. The ITAC is comprised of individuals from the investment profession possessing strong technical accounting knowledge.¹

The ITAC appreciates the opportunity to express its views on the proposed FSP EITF 99-20-a, "Amendments to the Impairment and Interest Income Measurement Guidance of EITF Issue No. 99-20." Our overarching concern with the proposal is that the current market environment induces management of companies to promote new ways to avoid reporting known losses and thereby bolster their capitalization through manipulating or introducing hasty changes to financial reporting. One such strategy for avoiding reporting losses on financial instrument holdings is to change the impairment testing rule. We also understand that the Securities & Exchange Commission has been lobbied heavily by members and representatives of the banking industry and other preparers to introduce changes in the impairment model embodied in Issue No. 99-20.² ITAC does not support the proposal. In our view it represents a rushed and rather jury-rigged approach to the introduction of accounting changes. Such an approach does not promote investor confidence in financial reporting -- especially at this time, when it is needed most. In that regard, we strongly agree with remarks made by SEC Chairman Christopher Cox earlier this month³:

"Accounting standards aren't just another financial rudder to be pulled when the economic ship drifts in the wrong direction. Instead they are the rivets in the hull, and you risk the integrity of the entire economy by removing them."

We are discomfited, however, by the Chairman's later remarks in the speech where he cited the SEC's

¹This letter represents the views of the Investors Technical Advisory Committee ("ITAC") and does not necessarily represent the views of its individual members, or the organizations in which they are employed, or the views of the Financial Accounting Standards Board or its staff. For more information about the ITAC, including a list of current members and the organizations in which they are employed, see

http://www.fasb.org/investors technical advisory committee/itac members.shtml.

² See for example, letter from the American Bankers Association to SEC chief accountant Conrad Hewitt, dated September 11, 2008 at http://www.aba.com/aba/documents/winnews/Accounting_OTTIPaper_091208.pdf ³ Remarks Before the AICPA National Conference on Current SEC and PCAOB Developments by SEC Chairman Christopher Cox Washington, D.C., December 8, 2008 at http://sec.gov/news/speech/2008/spch120808cc.htm

encouragement of the FASB to:

"...address issues including impairment, the convergence of IFRS and U.S. GAAP on this and related topics, and the treatment of so-called EITF 99-20 securities including CDOs and other structured instruments. As you will hear from Bob Herz and others later today, the FASB is working diligently on these issues, and is mindful of the importance of providing guidance in time for the preparation of annual reports at the end of this year."

In our view, the addition of this item to the Board's agenda at this time coupled with an unusually limited comment period, gives the appearance that both the Commission and the Board have conceded to the wishes of a vocal industry group, to the detriment of investors. The Board has clearly acted without thorough due process and consideration of the ramifications of the issues, and without any clear articulation of benefits to the investing public. In our view, these actions have the unfortunate effect of undermining the credibility of the standard-setting process and the trust that is essential if financial reporting is to serve the investing public. Our view is that it is more appropriate for the Board to address the impairment issues raised in the document by adding an agenda project for the total reconsideration of Statement 115, instead of a quick amendment of Issue No. 99-20.

We find it to be a perverse outcome of this proposed amendment that Issue No. 99-20, in its current form, triggers impairment measurements that are based on fair values incorporating assumptions of marketplace participants - a tenet of FASB Concepts Statement 7, "Using Cash Flow Information and Present Value in Accounting Measurements," and those underlying the estimation of fair values using Level 3 inputs as described in FASB Statement 157, "Fair Value Measurements." The perverseness lies in the fact that Issue No. 99-20 is a Level C accounting standard according to the accounting principles hierarchy espoused in Statement 162, "The Hierarchy of Generally Accepted Accounting Principles." The impairment testing generated by this Level C standard will be likely to produce financial reporting results that are more representative of fair values than the Statement 115 model, which is contained in the hierarchy's highest level - the Level A accounting standards.

We believe that the application of the Statement 115 model to securities and retained interests within the scope of Issue 99-20 will result in the delayed recognition of losses and less investor-useful information. We believe that this is an indication of long-lasting problems with the inconsistent impairment artifacts produced by Statement 115 and its entire mixed-attribute foundation, and accordingly, believe that amending Issue No. 99-20 would diminish the quality of financial reporting by further gravitating away from fair value

While the idea of making accounting standards more internally consistent with each other has intuitive appeal, we believe such a decision needs to be judged by the results it would produce. On those grounds, the proposed changes to Issue No. 99-20 fail the test.

The following are our responses to the Board's specific questions raised in the proposal:

1. Issue 99-20 applies to beneficial interests that are not of a high credit quality or that can be prepaid or otherwise settled in such a way that the holder would not recover substantially all of its recorded investment. Other debt securities (for example, a corporate bond) with similar credit quality are not within the scope of Issue 99-20. The Board decided that similar instruments should be subject to the same impairment model. Do you agree with the Board's decision? Does the presence of prepayment risk warrant a different impairment model?

While we believe that similar instruments should be accounted for similarly, we believe that the issue raised in this question indicates the problems that have arisen from the accounting literature's use of a mixed-attribute model with various carve-outs of accounting treatments. It illustrates why we believe the proper question is not whether the Issue No. 99-20 impairment model needs amendment. The proper

question is "why does Statement 115 not produce results that are more representative of fair values than Issue No. 99-20 in the current environment?" Consistent with the aforementioned, we believe the presence of prepayment risk does not warrant a difference in accounting treatment, in and of itself, yet it provides another indicator supportive of a fair value measurement given the prepayment potential.

2. The FSP amends Issue 99-20 to align the Issue 99-20 impairment model with the Statement 115 impairment model, resulting in a consistent determination of whether other-than-temporary impairments of available-for-sale or held-to-maturity debt securities have occurred. Statement 115 requires entities to assess whether it is probable that the holder will be unable to collect all amounts due according to the contractual terms. Is the Statement 115 impairment model operational for beneficial interests that were previously within the scope of Issue 99-20?

As indicated above, consistency of one piece of accounting literature with another should not be a sufficient reason for changing a standard that produces a more credible reporting outcome. We believe that the Statement 115 impairment model, for reasons already stated, will not produce more credible and representationally faithful financial reporting than the Issue No. 99-20 model.

3. The Board is proposing that the FSP be effective for interim (including the fourth quarter for an SEC registrant) and annual reporting periods ending after December 15, 2008, applied prospectively. Do you agree with the proposed effective date? Should the Board consider making the FSP effective for periods beginning after December 15, 2008?

Given our dissatisfaction with the proposal and its likely outcomes, its effective date is irrelevant. Implementation of the proposed accounting would be detrimental to the interests of investors, regardless of when it took effect. We cannot and do not support the issuance of these amendments. That said, even if the proposal had been one of merit, the extremely short 10-day comment would be inappropriate given its timing on the calendar and the materiality of the proposed changes.

In closing, we urge the Board to abandon this proposal and instead focus its efforts on studying the flaws in Statement 115. Promoting the accounting in the proposal would result in less transparency for financial instruments with declining market value. The occurrence of these impairments are well-understood by investors and other market participants -- as evidenced by the prices of these securities in the market. In addition, making changes to the accounting without proper due process would erode their confidence in the financial reporting system. Given that plausible outcome, and the trivialization of the FASB's due process mechanism by the issuance of the proposal in these circumstances, we believe it would indeed be poor public policy for the Board to adopt this proposal.

If you have any questions, please feel free to contact the undersigned or any ITAC member.

Sincerely,

Investors Technical Advisory Committee

By:

Jack Ciesielski

Member

Investors Technical Advisory Committee