

EXECUTIVE BOARD

Koos (J.V.) Timmermans  
Chief Risk Officer



LETTER OF COMMENT NO. **250**

International Accounting Standards Board  
Attn. Sir David Tweedie, Chairman  
30 Cannon Street  
London EC4M 6XH  
United Kingdom



LETTER OF COMMENT NO. **289**

Financial Accounting Standards Board  
Attn. Robert H. Hertz, Chairman  
401 Merritt 7  
PO Box 5116  
Norwalk, CT 06856-5116  
United States of America

Subject

**Proposed FSP FAS 115-a, FAS 124-a and EITF 99-20-b  
Proposed FSP 157-e  
IASB Request for views**

Date

31 March 2009

Dear Sirs,

We have read the proposals issued by the FASB in the two FASB Staff Positions (FSPs), FSP FAS 157-e "*Determining Whether a Market is Not Active and a Transaction is Not Distressed*" and FSP FAS115-a, FAS 124-a and EITF 99-20-b "*Recognition and Presentation of Other Than Temporary Impairments*". We welcome the important steps that are being taken by the FASB and thank you for the opportunity to comment on your proposals. We have also read the "*Request for views*" on these proposed FASB amendments as issued by the IASB. This letter combines our comments on both the FASB and the IASB documents.

In this letter, we provide the comments on behalf of ING Group, a world-wide financial services organisation focused on banking, investments, life insurance and retirement services. In this letter, we would like to highlight our key comments. Responses to the detailed questions in the FSPs are included in Appendices 1 and 2.

We strongly believe that the accounting requirements for financial instruments need improvement in the very short term, as the recent market turbulence has highlighted important weaknesses in the current requirements, both under US GAAP and IFRS. The most important improvements needed relate to the determination of fair value in illiquid markets and the overstatement of losses in reporting impairments on available-for-sale investments. These areas have been highlighted many times, including in the request from the European Committee to the IASB and in the various roundtables of the IASB and FASB.

**Proposed FSP FAS 115a, FAS 124-a and EITF 99-20-b**  
**Proposed FSP 157-e**  
**IASB Request for views**

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We welcome the proposals issued by the FASB as we believe these exactly address the core issues in the current requirements. We furthermore welcome the sense of urgency in the proposals and the intention to allow implementation as of 1 January 2009. We therefore fully support the FASB proposals. In addition, we strongly urge the IASB to implement similar improvements with the same timing. We note in this respect that:

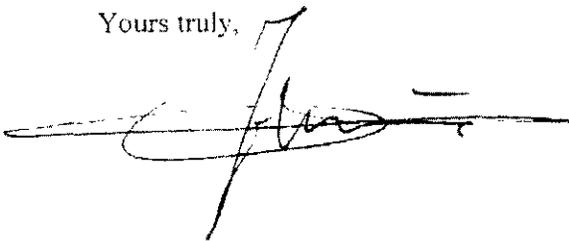
- The FASB proposals are directed to the same key issues that many constituents (including the EU, banking and insurance industry representatives, auditors and ING) have asked the IASB to resolve in the short-term.
- The FASB proposals are equally relevant to IFRS and can be implemented relatively easily.
- Although we recognise and support the need for due process on changes in IFRS, we believe the same applies to US GAAP; we fail to see why it would be impossible for the IASB to propose changes to IFRS under a due process, where the FASB was able to do so for the same proposals.
- We clearly support convergence and harmonisation of IFRS and US GAAP. While we recognise the concerns of the IASB that there are differences in detail between the impairment models in IFRS and US GAAP, we do not believe this is a reason to diverge further in key areas of the available-for-sale impairment model. We believe that the detailed differences can be resolved in the longer-term joint projects, but that it is very important to maintain a level playing field in the areas where amendments are proposed by the FASB. With regard to the distinction between active and inactive markets and the determination of fair value in inactive markets, no significant differences currently exist between IFRS and US GAAP. Not implementing the FASB proposals in IFRS would create significant differences between "fair value under IFRS" and "fair value under US GAAP" for exactly the same security. We believe that this is unacceptable.

*In conclusion:*

- We believe that the FASB proposals addresses the key issues in accounting for financial instruments as highlighted by the turmoil in financial markets and we are very supportive of the approach taken by the FASB; we therefore strongly encourage the FASB to adopt the proposed amendments as planned.
- We strongly believe that, both because of the technical merits of the proposals and the clear need for continuous convergence between US GAAP and IFRS, the IASB should implement the same amendments at the same time. We are very concerned by the lack of concrete action by the IASB and urge the IASB to accelerate its efforts and actions.

We are available to discuss these proposals further with you and/or your staff.

Yours truly,



**APPENDIX 1: RESPONSE TO QUESTIONS IN FSP 115-a, FAS 124-a, EITF 99-20-b**

**1. This proposed FSP would require entities to separate (and present separately on the statement of earnings or “performance indicator”) an other-than-temporary impairment of a debt security into two components when there are credit losses associated with an impaired debt security for which management asserts that it does not have the intent to sell the security and it is more likely than not that it will not have to sell the security before recovery of its cost basis. The two components would be (a) the credit component and (b) the non-credit component (residual related to other factors). Does this separate presentation provide decision-useful information?**

Yes. We agree that, for debt securities for which there is no intent to sell, separating an other-than-temporary impairment into two components would result in more decision useful information. For such securities, only the credit component is reflective of estimated true losses and should be reflected in net profit or loss. The non-credit component is not reflective of a true expected loss and, therefore, should not be reflected in net profit or loss.

**2. This proposed FSP would require that the credit component of the other-than-temporary impairment of a debt security be determined by the reporting entity using its best estimate of the amount of the impairment that relates to an increase in the credit risk associated with the specific instrument. One way of estimating that amount would be to consider the measurement methodology described in paragraphs 12–16 of FASB Statement No. 114, *Accounting by Creditors for Impairment of a Loan*. For debt securities that are beneficial interests in securitized financial assets within the scope of Issue 99-20, the amount of the total impairment related to credit losses would be determined considering the guidance in paragraph 12(b) of Issue 99-20. Do you believe this guidance is clear and operational?**

Yes, we believe that this is clear and operational.

**Do you agree with the requirement to recognize the credit component of an other-than-temporary impairment in income and the remaining portion in other comprehensive income?**

Yes, we agree. Only the credit component is reflective of estimated true losses and should be reflected in net profit or loss. The non-credit component is not reflective of a true expected loss and, therefore, should not be reflected in net profit or loss. We agree that, as it is not the intention to make further significant changes to the accounting model for available-for-sale investments at this point in time, the non-credit component should be reflected in other comprehensive income.

**Under what circumstances should the remaining portion be recognized in earnings?**

The remaining portion should be recognised in earnings when the entity has decided, is required, and/or intends to sell the security before recovery of the cost.

**3. This proposed FSP modifies the current indicator that, to avoid considering an impairment to be other than temporary, management must assert that it has both the intent and the ability to hold an impaired security for a period of time sufficient to allow for any anticipated recovery in fair value. The Board believes that, compared to current requirements, it is more operational for management to assert that (a) it does not have the intent to sell the security and (b) it is more likely than not that it will not have to sell the security before its recovery. Does this modification make this aspect of the other-than-temporary impairment assessment more operational (the remaining factors discussed in FSP FAS 115-1/FAS 124-1, *The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments*, would remain unchanged)?**

Yes, we believe that this would make the requirements clearly more operational.

**Should this modification apply to both debt and equity securities?**

We are of the opinion that this modification should apply to both debt and equity securities.

**Will this change result in a significant change to the assessment of whether an equity security is other-than-temporarily impaired?**

Yes. We believe that this would result in a significant change to the assessment of whether an equity security is other-than-temporarily impaired. We believe that it would bring the assessment of impairment more in line with management intent and economic reality.

**4. This proposed FSP would require that the portion of an impairment recognized in other comprehensive income for held-to-maturity securities be amortized (through other comprehensive income) over the remaining life of the debt security in a prospective manner based on the amount and timing of future estimated cash flows by offsetting the recorded value of the asset (that is, an entity would not be permitted to adjust the fair value of a held-to-maturity security for subsequent recoveries in the fair value of the security similar to the accounting for available-for-sale securities).**

**Do you agree with this requirement?**

We believe that for held-to-maturity investments, which are measured at amortised cost, only the credit portion should be recognised in net profit or loss. We do not believe conceptually that it is appropriate to recognise the non-credit portion in other comprehensive income. If however such non-credit portion is recognised in other comprehensive income for investments that are held-to-maturity as well, we agree with the requirement to amortise over the remaining life.

**5. Is the proposed effective date of interim and annual periods ending after March 15, 2009, operational?**

Yes. We believe that the proposed effective date is operational and fully support the proposals being effective for the calendar year 2009.

**APPENDIX 2: RESPONSE TO QUESTIONS IN FSP 157-e**

**1. Is the proposed effective date of interim and annual periods ending after March 15, 2009, operational?**

Yes. We believe that the proposed effective date is operational and fully support the proposals being effective for the calendar year 2009.

**2. Will this proposed FSP meet the project's objective to improve financial reporting by addressing fair value measurement application issues identified by constituents related to determining whether a market is not active and a transaction is not distressed? Do you believe the amendments to Statement 157 in this proposed FSP are necessary, or do you believe the current requirements in Statement 157 should be retained?**

We fully agree with the proposals and believe that these are a significant improvement to the current requirements in FAS 157.

**3. Do you believe the proposed two-step model for determining whether a market is not active and a transaction is not distressed is understandable and operational? If not, please suggest alternative ways of identifying inactive markets and distressed transactions.**

Yes, we believe that the proposed two-step model is understandable and operational.

**4. Are the factors listed in paragraph 11 of the FSP that indicate that a market is not active appropriate? Please provide any other factors that indicate that a market is not active.**

Yes, the factors that indicate that a market is not active are appropriate.

**5. What costs do you expect to 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 of the FSP without reducing the benefits?**

We believe that the benefits of implementing the proposals clearly outweigh the costs.