## AMERICAN BUSINESS BANK®



March 27, 2009

LETTER OF COMMENT NO. 28

Mr. Russell Golden Technical Director Financial Accounting Standards Board 301 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116

Via email: director@fasb.org

RE: Comments on Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b: Recognition and Presentation of Other-Than-Temporary Impairments

Dear Mr. Golden:

On behalf of American Business Bank, I appreciate the opportunity to comment on the proposed FASB Staff Position No. FAS 115-a, FAS 124-a, and EITF 99-20-b, Recognition and Presentation of Other-Than-Temporary Impairments ("proposed FSP").

First of all, I believe that the proposals are a significant improvement from the current rules and will add to the accuracy, consistency and transparency of financial statements. Our bank assets are divided evenly between relationship loans and investment securities. The investment securities are centered in SBA loan pools, agency mortgage backed securities and municipals. We believe that the contemplated changes will be helpful in recognizing losses that are truly credit related to differences between book cost and market prices caused solely by dysfunctional markets and sometimes difficult to obtain market prices. We also feel that allowing the new rules to be effective as of the first quarter 2009 is important.

Additionally, we are a member of the Federal Home Loan Bank of San Francisco and we have a vested interest in the rules that govern other-than-temporary impairment ("OTTI") of securities as it is currently accounted for in financial statements due to the stock that we are required to hold in FHLB. For instance, in the fourth quarter of 2008, the FHLB San Francisco recorded an OTTI charge of \$590 million on certain non-Agency mortgage-backed securities ("MBS"). We have learned that most of this charge is due to market losses resulting from the lack of liquidity in the MBS market. The estimated credit loss on the securities was only \$27 million. As a result of the OTTI charge, the FHLB San Francisco suspended payment of their fourth quarter dividend and did not repurchase excess capital stock in January 2009. At some point, the stock that we hold could become impaired as a result of their inability to repurchase stock at par.

We would also suggest that the current proposal could be strengthened. We believe that noncredit-related losses on held-to-maturity debt securities should not be charged to current period earnings or capital for several reasons:

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- Debt securities are different from equity securities because of the contractual cash flows and
  maturities. Quotes for held-to-maturity debt securities, excluding credit losses, are expected
  to reverse over time.
- Recording non-credit losses on held-to-maturity debt securities as OTTI makes financial statements less transparent and more confusing for financial statement users. It contradicts the definition of such investments as held-to-maturity securities, which should not be subject to market-related losses. It also distorts both capital and net interest income to reduce the book value of a debt security as a loss to OCI, only to accrete the amount over time back to the value of the security through interest income.
- Recording only the estimated credit losses would be aligning the OTTI rules with the accounting treatment of loans held-for-investment, a closely related investment vehicle.

For these reasons, for held-to-maturity debt securities with OTTI, only the credit losses should be reflected in the financial statements, while the fair value and the unrealized loss that is not attributable to the estimated credit losses should continue to be shown in the notes to the financial statements, where they are readily available to financial statement users.

Further, we support the position that the new rules need to be applied to previous OTTI taken, not just new OTTI that may occur. Many institutions have already recorded large OTTI charges, a significant portion of which were attributable to market losses rather than credit losses as a result of current market turmoil. The proposed rules should be modified to permit organizations that have already recorded OTTI charges to elect to use the new rules, if desired, on charges previously booked. This would enable financial statement users to compare consistent information over reporting periods. We also support the change in language as to our "intent to hold" to "no specific plans to sell" and "more likely than not that a security will not have to be sold prior to recovery".

Finally, we believe that the OTTI determination under FAS 115 regarding whether the contracted for principal and interest will be recovered should control over the current present value calculation described in EITF 99-20.

Thank you for this opportunity to comment on this critically important proposal. We believe that these revised rules will materially improve transparency, reliability, and clarity of financial statements for all institutions.

Sincerely

Vice Chairman

American Business Bank Los Angeles, California