October 28, 2005

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We appreciate the opportunity to comment on the Proposed Statement of Financial Accounting Standards, Business Combinations, a replacement of FASB Statement No. 141. We support the FASB's efforts to improve financial reporting and to converge international standards. We recognize the complexity in establishing new guidance that meets the needs of many different users and as a financial statement preparer, we are writing to share our perspective on this important topic.

Boston Scientific is a worldwide developer, manufacturer, and marketer of medical devices that are used in a broad range of interventional medical specialties. Our approach to innovation combines internally developed technologies and products with those that we obtain externally through our strategic acquisitions and alliances. We are an active acquirer and have completed four major acquisitions during our current fiscal year. Each of these acquisitions included a contingent consideration mechanism. The following sections outline our position on the questions for comment outlined in the Exposure Draft.

Contingent Consideration
In response to Question 6, we do not believe the proposed accounting for contingent consideration after the acquisition date is appropriate. We believe the proposed guidance on accounting for contingent consideration could create substantial non-operating earnings volatility and valuation issues, which could potentially mislead users of financial statements.

Valuation Concerns
In our experience within the medical device industry, contingent payment mechanisms are often necessary since the buyer and seller do not agree on the value of the business at the acquisition date. However, the parties may agree on a contingent consideration mechanism to pay for value as it is verified by future business performance or milestones. This is particularly true in acquisitions of young technology companies. The following
factors, among others, contribute to the disagreements between buyers and sellers related to determining the value of an acquiree:

- Feasibility, manufacturability, and marketability of technologies acquired;
- Future regulatory approval hurdles;
- The potential need to establish reimbursement for approved products within multiple global sales regions;
- Potential litigation surrounding acquired technologies;
- The emerging nature of markets that certain acquired technologies are intended to serve; and
- The significance of competitors’ future product offerings.

As noted in paragraph A38d of the proposed standard, the Board states that “Contingent payments that are based on multiples of future earnings, future cash flows, or other similar performance measures may indicate that the formula is intended to verify the fair value of the acquiree, and therefore should be accounted for as part of the business combination.” However, we note that under paragraph 26 of the proposed standard, only the estimate of the initial fair value of contingent payments would be included in the purchase price. Subsequent adjustments are recorded through the P&L. We believe the current guidance to include contingent consideration in the purchase price when the contingency is resolved is more appropriate.

Under the proposed accounting, we do not believe it is feasible to record an estimate of the fair value of contingent consideration at the acquisition date. We often use contingent consideration mechanisms because we do not know and therefore cannot agree with the seller on the fair value of the business at the acquisition date. To address this valuation issue, we agree with the seller on the mechanism to pay for the fair value of the acquired business when the fair value is verified by future performance measures.

As of the acquisition date, determining the fair value of these potential payments is highly subjective to the point of being arbitrary. We believe that two or more reasonable parties estimating the fair value of potential contingent consideration payments at the acquisition date could determine two or more widely discrepant, but reasonably supported values. Therefore, we believe the comparability and reliability of financial statements would be weakened under the proposed guidance. We believe that recording a fair value for an amount that is not probable is less reliable than disclosing the terms and expectations for future payments and recognizing the contingent payment in the purchase accounting when it is determinable.

Increased Reliance on External Subject Matter Experts for Accounting

We also believe the increased reliance on fair value based assumptions that triggers income/expense recognition assumes a level of technical valuation capability that many accounting groups do not currently maintain. We currently perform initial purchase price valuation procedures with the assistance of independent valuation consultants. The proposed accounting would require a significant amount of incremental fees to engage additional valuation consultants or to hire additional technical resources to apply this
accounting standard. We are concerned with increased reliance on external subject matter experts and fair value-based assumptions will be a costly, subjective and time consuming process that will result less reliable financial reporting.

Misleading Earnings Volatility

Under our contingent payment models, additional consideration is paid as additional value of an acquired business is verified. Payment of additional consideration is generally contingent upon the acquired companies reaching certain performance milestones, including attaining specified revenue levels, achieving product development targets or obtaining regulatory approvals. For early stage technology companies, we believe that the total consideration to be paid cannot be reliably determined on the basis of observable market values or historical analyses that are typically used to estimate fair values at the acquisition date. We believe that significant changes to initial assessments of the fair value of contingent consideration for acquisitions are inevitable due to the factors above that are extremely difficult to measure at the acquisition date and that may take years to resolve. We are concerned that the proposed accounting would create substantial P&L volatility resulting from changes in the estimates of expected payments during the contingent consideration term that would not be representative of the combined entity's post-acquisition operations.

For example, assume a business combination includes a milestone payment that is contingent upon regulatory approval for a specified product that is in the development stage upon acquisition. After making an initial estimate of the fair value of this contingent obligation as of the acquisition date, assume the regulatory approval for the acquired technology is not obtained as initially expected. In this circumstance, the post-combination entity would potentially record a gain to lower the contingent consideration liability. However, this gain would not reflect the nature of the business event driving the accounting. That is, a delayed product approval, meaning delayed and/or reduced future revenue/benefit to the business. Likewise, the post-combination entity would likely record a loss if regulatory approval is obtained sooner than initially expected at the acquisition date, which would result in a negative P&L consequence due to a positive business event. We believe this accounting would create confusion amongst the users of financial statements due to the inverse relationship of the underlying performance.

Therefore, we question whether the requirement to record changes in estimates of fair value through the P&L would provide an improvement over existing GAAP. Further, we disagree with the notion that reductions in the fair value of expected contingent payments that would result in a credit to the P&L would be offset by an associated impairment expense. This is because goodwill is tested for impairment at the reporting unit level under FAS 142. In addition, other intangible assets are tested under a two-step approach (i.e. first undiscounted future cash flows are compared to carrying values). Therefore, any reductions in fair value of the expected payments would not necessarily correlate to any impairment charges of goodwill or other assets.
Our Proposed Alternative

We believe that contingent consideration that is not determinable at the acquisition date is better accounted for under the current model. We recognize the value of enhanced disclosures surrounding contingent payments and support efforts to improve such reporting in the footnotes to the financial statements. We propose retaining the current model of recognizing contingent consideration under FAS 141 and adding enhanced disclosures regarding contingent consideration.

Acquisition Costs

In response to Question 7, we believe that acquisition transaction costs should be included in measurement of the consideration transferred in a business combination. We believe they should be treated consistently with other reasonable and necessary costs that are capitalized to put assets into operation, regardless of whether the costs are paid to the seller or to third parties.

Preacquisition Contingencies

In response to Question 8, we believe the current guidance under FAS 5 is a more practical and operational model for preacquisition contingencies than the proposed expected value model. In practice, we foresee practical issues with both the recognition and measurement of many preacquisition contingencies such as potential litigation when the liability is not probable or reliably estimable. We are concerned that users of our financial statements would be misled by inclusion of expected values of assets and liabilities that may have only a remote possibility of occurring and by the volatility created by recording changes in such values through current operations. In addition, we believe that applying different accounting for similar contingencies (for example, an acquired litigation contingency versus all other litigation contingencies) would create confusion among users of financial statements. We propose to retain the existing guidance on preacquisition contingencies within FAS 141 disclosures about the facts and circumstances considered in determining outcomes under FAS 5.

Exit Costs

In response to Question 8, we believe that exit costs that are expected by management of the acquiring company at the acquisition date represent a cost of the business combination that should be accounted for as part of the acquisition. These costs often result from business decisions and contractual commitments made by the pre-acquisition management team that the acquiring company expects to unwind in conjunction with the acquisition. As an additional note, we believe that the proposed accounting for exit costs is incongruous with the proposed accounting for preacquisition contingencies.

IPR&D

In response to Question 8, we believe that the proposed guidance for IPR&D would result in significant inconsistencies within GAAP for R&D expenses. We urge the FASB to reconsider whether IPR&D meets the definition of a capitalizable asset under FAS 2, research and development costs that have no alternative future use. We believe the proposed guidance would reduce rather than improve comparability between companies that leverage both external and internal R&D efforts and those companies that rely on
internal efforts only. We do not believe financial reporting would be improved by
grossing up balance sheets for acquired projects whose future benefits may not
materialize. If those projects fail, as many do, companies would be required to record
large impairment charges for items that we believe did not meet the definition of an asset
at the acquisition date. We propose retaining the current guidance for IPR&D under FIN
4.

**Fair Value Measurement**

In response to Question 4, we believe the measurement period should allow for
subsequent changes to the expected fair value of contingent consideration. We believe
the total subsequent payments made should be captured in the purchase accounting to
accurately reflect the economics of the acquisition. If the actual amounts paid are
substantially different than those expected as of the acquisition date, there would be
additional volatility introduced into post-acquisition earnings and a wide discrepancy
between the total purchase price and the consideration paid. In practice, we believe it
will be extremely difficult to determine which changes in fair value result from events
and circumstances that were present at the acquisition date versus those that occur
subsequent to the acquisition date.

Lastly, we believe that if the FASB continues to promulgate rules (i.e. Business
Combinations, Stock Compensation, etc.) that increase the number and complexity of
judgments (i.e. Fair Value Assumptions, etc.) required for financial reporting, it will
make it more difficult for the users of the financial statements to assess the underlying
performance of the business. It will also result in more P&L volatility and less
consistency across companies to allow users to compare performance within the same
peer group. We believe this will clearly emphasize the importance of cash flow to better
assess a company’s performance and therefore will move the investment community to
focus more on cash flow reporting (i.e. Cash Flow per Share, etc.) versus reporting under
GAAP.

Thank you for the opportunity to comment on the FASB Exposure Draft regarding
Business Combinations. Please contact Daniel Florin @ (508) 650-8484 or myself @
(508) 650-8450 if you would like to discuss this letter in more detail.

Sincerely,

Lawrence C. Best
Executive Vice President, Finance and Administration and Chief Financial Officer
(Principal Financial and Accounting Officer)

cc: Daniel Florin, Vice President and Corporate Controller