17 January 2006

Mr. Lawrence W. Smith
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Financial Accounting Standards Board
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Letter of Comment No: 31
File Reference: 1235-001
Date Received: 1-17-06

Re: Invitation to Comment: “Selected Issues Relating to Assets and Liabilities with Uncertainties”

Dear Mr. Smith:

Credit Suisse Group (“CSG”) appreciates the opportunity to express our views on the Financial Accounting Standard Board’s (“FASB”) Invitation to Comment: “Selected Issues Relating to Assets and Liabilities with Uncertainties” (“the Document”) as posted to the FASB’s website. CSG’s consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States (“US GAAP”). A number of our subsidiaries are required to apply International Financial Reporting Standards (“IFRS”) to their stand-alone financial statements. In the context of the general goal of convergence of IFRS and US GAAP conceptual frameworks, the FASB’s deliberations regarding the above referenced subject are important to us.

Before responding specifically to the questions posed in the Document, we note that while we are generally supportive of the conceptual basis outlined, we have certain reservations regarding its application in practice. While the Document focuses on the recognition of assets and liabilities, and discusses the concept of only recognizing assets and liabilities with unconditional elements, it does not comprehensively discuss measurement of those items. We understand the logic behind recognizing only unconditional elements, but we do not immediately see how one ignores conditional elements in this context, as they are both integral elements of the same right or obligation. In many instances the measured value of unconditional items is derived solely from probabilities associated with the conditional aspects of the items.

Unconditional liabilities, for example, might have important conditional elements such that the unconditional elements have no value, i.e. all the value may lie in the conditional element. Because the Document largely excludes discussion regarding measurement of such uncertain assets and liabilities, the Document lacks a comprehensive context that leads to difficulty in addressing the questions posed therein.
There are a whole host of unconditional rights that an entity may have, for example, the right to sue, the right to purchase insurance, etc., but the question arises as to whether these meet the definition of an asset under US GAAP — “probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events.” Perhaps what is required is a reassessment of the definition of an asset and a liability rather than forcing a recognition criteria framework into an existing definition. One could have a view that it is sufficient to remove the reference to past transactions or events in this definition, and as well in the definition of a liability, rather than pursuing the concept of conditional and unconditional elements. Another alternative might be to remove the reference to “probable” in the definition.

The conceptual framework in the Document might be viewed as operative for contractual arrangements between two or more parties, but becomes much less straightforward for non-contractual arrangements. The framework outlined in the Document is problematic insofar as there are some liabilities currently recognized under various accounting guidance that we might not recognize under the framework of this Document. For example, under existing literature it is well accepted in practice under FAS 5 guidance that a liability is recognized even if there is only a threat of a lawsuit. If a lawsuit is threatened, but not filed, how should the conditional and unconditional elements of the “threatened” party be viewed? If an entity becomes aware that it has marketed defective products, should the entity not recognize a liability event if no other parties have exercised their rights? Alternatively, if an entity has filed a lawsuit, has it unilaterally created an asset?

We can envision other situations where application of the framework outlined in the Document would be challenging. With respect to loan loss allowances, the Document appears to indicate that a lender would not record an allowance at inception of a loan because it would not have a specific reason to believe that specific new loan would require an allowance despite the historical record and experience of the entity over a pool of loans.

An entity obviously has an unconditional right to make use of internally developed intangible assets. Current accounting guidance under FAS 142 would not allow for recognition of many internally developed intangible assets such as customer lists, patents and copyrights, but the Document seems to indicate that such an outcome would be conceptually based.

In the entire Document, the only reference to measurement is a short section beginning at paragraph 48 that indicates that probability should be considered in measurement. With this paragraph the Document addresses the current difficult question of probability-based recognition by substituting the difficult question of measurement. We believe that this section represents an inadequate consideration of measurement and its important role regarding assets and liabilities with uncertainties. Is measurement still on a “best estimate” basis, or does this concept require re-
examination as well? We suggest that this reference be expanded and made more explicit so as to make application of the entire conceptual framework more practical. Lastly, the Document makes various references to aspects of IAS 37 and 38, but it is not clear if the FASB is considering those pieces of literature in their entirety or only those paragraphs to which the Document refers. We suggest that the Document should be more explicit in indicating how comprehensively the FASB is examining IAS 37 and 38.

Our response to the specific questions posed in the Document follows:

**Question 1:** Do you agree with eliminating the notion of contingent asset? If not, why not?

Conceptually we agree that the notion of a contingent asset should be eliminated. Items that meet the definition of an asset are not contingent.

**Question 2:** Do you agree with the IASB’s analysis of unconditional and conditional rights in contractual settings, as summarized in paragraphs 30 and 31 of this Document and paragraphs BC10-BC13 of the IASB Exposure Draft? If not, why not?

We agree with the analysis as applied to contractual settings, but question its applicability with regards to measurement. Paragraph 31 refers to the right to insurance coverage as a present asset (because it is unconditional), but we fail to see how one would measure that asset as its entire value presumably lies in the conditional element, which is the right to reimbursement in the event of an insurable event. The Document should be more explicit regarding guidance on measurement of unconditional assets.

Paragraph 31 indicates that the existence of a conditional right implies the existence of an underlying unconditional right and that the unconditional right is a present asset. It may be difficult to identify the unconditional right, especially when there is no past transaction or the past transaction is not specifically associated with the right.

**Question 3:** If you answer yes to Question 2, do you agree that the IASB has appropriately applied the notion and supporting reasoning referred to therein in the analysis of Examples 1-3 in paragraphs 33-35 of this Document? If not, why not?

We do not support the analysis in these examples. While the unconditional right may be an asset, its entire value lies in the respective conditional elements, i.e. that a lawsuit is successful, that the potential customer signs the contract, etc.

While they may be unconditional rights, we do not believe that a right afforded by the government of a society, for example the right to sue, the right to engage in commerce, etc. meet the definition of an asset under IFRS because they are not resources controlled by the entity nor are they the result of past transactions.
Question 4: Do you agree with the IASB’s proposal to classify as intangible assets those unconditional rights that are associated with conditional rights and that satisfy the definition of an asset, without shifting the consideration of the uncertainty surrounding the conditional rights from recognition to measurement?

We do not believe that all unconditional rights associated with conditional rights that satisfy the definition of an asset should be classified as intangible assets. If such rights arise through contractual settings we believe the asset should be classified based upon those contractual arrangements, which may or may not be an intangible asset. As noted in our response to Question 2 above, we question how such an asset can be measured without regard to its conditional rights.

Question 5: Do you agree with eliminating the notion of contingent liability? If not, why not?

Conceptually we agree that the notion of contingent liability should be eliminated. Items that meet the definition of a liability are not contingent.

Question 6: Do you agree with the IASB’s analysis of unconditional and conditional obligations in contractual settings, as summarized in paragraphs 39 and 40 of this Document and paragraphs BC24-BC28 of the IASB Exposure Draft? If not, why not?

No. We agree with the analysis as applied to contractual settings, but question its applicability to non-contractual settings. Paragraph 40 refers to the obligation arising under a warranty as a present liability (because it is unconditional), but we fail to see how one would measure that liability as its entire value presumably lies in the conditional element, which is the obligation to repair or replace a defective product. The Document should be more explicit regarding guidance on measurement of unconditional liabilities.

Question 7: If you answer yes to Question 5, do you agree that the IASB has appropriately applied the notion and supporting reasoning referred to therein in the analysis of the example in paragraph 41 of this Document? If not, why not?

We do not support the analysis in this example as again, while the unconditional obligation may be a liability, its entire value lies in the conditional elements, i.e. that the lawsuit is successful. The lack of explicit guidance regarding measurement makes application difficult. On the other hand, we do agree with the analysis of the situation outlined in paragraph 42. While the government generally would have an unconditional right to pass a new law obliging an entity to accept its sold product for disposal, until the new law is enacted, the entity cannot have a present obligation with respect to that law.
Question 8: Do you agree with omitting the probability criterion for recognition of nonfinancial liabilities? If not, why not?

Yes, provided the probability criterion are factored into the measurement criterion. Conceptually the approach is workable, but in reality determining probabilities that are not entirely based on management’s assumptions is not feasible. Therefore a “more likely than not” criterion should be the threshold in measurement, otherwise an issuer would be recording assets without an expectation of actually receiving benefits from them.

Question 9: Do you agree with the proposed measurement requirements for nonfinancial liabilities?

We do not agree with the proposed measurement requirements for nonfinancial liabilities that calls for elimination of any reference to “best estimate” and requiring that an entity measure a nonfinancial liability at the amount that it would rationally pay to settle the present obligation or to transfer it to a third party. We believe it is more appropriate to consider the probability outcome of a given settlement rather than reliance on some third party pricing mechanism. A substantial portion of such liabilities are not settled through third parties and any price obtained through such a price discovery process is unlikely to reflect the reality of the situation or the value at which such liabilities may be settled, which could also be zero. A third party would not have complete knowledge of the details of the issue at hand and would demand more than what settling the liability is worth.

If you have any questions or would like any additional information on the comments we have provided, please do not hesitate to contact Eric Smith in New York on 212-538-5984 or Christopher Harris in Zurich on ++41 44 333 8395.

Sincerely,

Rudolf Bless
Managing Director
Chief Accounting Officer

Christopher Harris
Vice President
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