



STATE OF NEW YORK
BANKING DEPARTMENT
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Letter of Comment No: ³²
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July 1, 2002

Ms. Suzanne Q. Bielstein
Director of Major Projects and Technical Activities
Financial Standards Accounting Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: File Reference No. 1100-163

Dear Ms. Bielstein:

The New York State Banking Department (the Department) appreciates the opportunity to respond to the Financial Accounting Standard Board's (the Board's) exposure draft, *Amendment of Statement 133 on Derivative Instruments and Hedging Activities*.

The Department acknowledges the Board's efforts to clarify numerous issues in a very complicated area of accounting. However, the Department believes the Board is missing an opportunity to significantly improve accounting for derivatives and hedging at a time when clear, simple standards are increasingly being demanded. The Department realizes that much of the exposure draft is used to incorporate the conclusions of the Derivatives Implementation Group. Critics of the Board, however, may continue to equate additional guidance with additional complexity.

In this spirit, the Department suggests that the Board endeavor to simplify the accounting for derivatives and hedging in the near future. The Department's views on accounting for derivatives and hedging have been conveyed to the Board in previous comment letters.

Following are additional specific comments on the existing draft.

- The exposure draft provides alternatives which will ensure inconsistent accounting. Specifically, the sentence added to the end of paragraph 12 permits non-option-based contracts with an initial net investment of less than five percent to be accounted for either as a derivative in full or to bifurcate a hybrid instrument into a

debt host and a derivative with no fair value. The Board should determine the preferable treatment and require it consistently. This choice conflicts with the Board's view in paragraph A8 that the amendment delivers the benefits of more consistent reporting of contracts.

- The Department applauds the Board for the additional disclosure required as described in paragraph 44. Current market concerns about hidden liabilities in off-balance-sheet vehicles makes this additional transparency very useful and important.
- The Department would delete condition (b) in paragraph 57(c)(3). The Department believes condition (a), which would prohibit stock purchase warrants issued by an entity for only its own stock from being considered readily convertible to cash, is by itself sufficient regardless of any time period. This approach is also consistent with the absence of a time period for warrants issued by an entity for other than in its own stock.

If you have any questions or would like to discuss our comments, please call me at (212) 618-6953.

Very truly yours,



John McEnerney
Chief of Regulatory Accounting