



LETTER OF COMMENT NO. 147

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Via E mail to director@fash.org

Re: File Reference 1600-100

Grant Thornton LLP appreciates the opportunity to comment on the Financial Accounting Standards Board (the Board) Exposure Draft document ("proposed Statement"), Disdosure of Certain Loss Contingencies: an amendment of FASB Statements No. 5 and 141R.

While we understand the Board's concern with the criticisms of financial statement users pertaining to current reporting and disclosure related to contingencies, we are troubled that several significant aspects of the proposed statement will be difficult to apply in practice and will result in information that may be of questionable benefit to users. In our view, the cost-benefit aspects of the proposed statement do not seem apparent.

Within the attached letter, we have included several suggested modifications. On balance, we believe that even if such modifications were made, the incremental improvement in financial reporting is marginal. We suggest that the Board defer any further effort on proposed disclosures, and first address the accounting for contingencies. We believe any changes in the existing accounting and disclosures for contingencies should be conducted in conjunction with the International Accounting Standards Board and result in a single converged standard. As we continue to move toward adoption of International Financial Reporting Standards ("IFRS") in the United States, we believe that, as much as possible, the FASB should limit changes to existing GAAP to only those changes that would facilitate convergence.

A more complete response is provided in our comments that are organized to correspond with the questions within the notice for recipients of the proposed Statement.

Response to questions



1. Will the proposed Statement meet the project's objective of providing enhanced disclosures about loss contingencies so that the benefits of those disclosures justify the incremental costs? Why or why not? What costs do you expect to incur if the Board were to issue this proposed Statement in its current form as a final Statement? How could the Board further reduce the costs of applying these requirements without significantly reducing the benefits?

We note the proposed Statement does not address recognition and measurement of loss contingencies, which may be addressed separately by the Board in the future. It would be preferable to have one statement that addresses the enhanced disclosure requirements in conjunction with changes to recognition and measurement. We note also that the Statement does not achieve convergence with IFRS. We recommend that the proposed Statement not be issued unless and until a converged statement is possible.

Although we support the project's objective of providing enhanced disclosures about loss contingencies, we do not believe the incremental benefits of the proposed Statement justify the incremental costs. We expect that costs will be significant. Primarily, costs will be incurred from incremental legal fees in assessing the quantitative and qualitative requirements, the preparation of disclosures by the entity resulting from the legal determination, and costs to audit the fairness of the disclosure.

In particular, we believe significant costs may arise in connection with auditing under the proposed Statement. We believe that the parties in a legal matter will likely attempt to keep litigation loss contingency information privileged, while the auditor requires access to such information for purposes of auditing the disclosure requirements under the proposed Statement. Auditors may not be able to adequately assess the fairness of the legal determinations made in complying with certain of the proposed Statement's disclosure requirements. This could potentially require use of another independent law firm acting as a specialist to assist the auditor in this evaluation. This, of course, would only increase costs and would contribute to the issues surrounding keeping information privileged.

We are concerned that the current framework existing between the American Bar Association ("ABA") and the AICPA may not provide adequate information to corroborate management's assertions related to the required disclosure under the proposed Statement. Thus, we believe the proposed Standard should not be implemented unless an updated agreement is reached with the ABA.

2. Do you agree with the Board's decision to include within the scope of this proposed Statement obligations that may result from withdrawal from a multiemployer plan for a portion of its unfunded benefit obligations, which are currently subject to the provisions of Statement 5? Why or why not?

Although we understand the Board's concerns about limiting scope exceptions, we believe that obligations that may result from withdrawal from a multiemployer plan should be excluded from the scope of the proposed Statement. We believe that these



obligations are fundamentally different from other contingencies within the scope of the proposed statement. We do not see the relevance of combining any recognized losses for such plans in the table of recognized loss contingencies with other dissimilar contingencies. In our view, the existing disclosure requirements within Statement 5 provide adequate information to financial statement users in this area.

3. Should an entity be required to provide disclosures about loss contingencies, regardless of the likelihood of loss, if the resolution of the contingencies is expected to occur within one year of the date of the financial statements and the loss contingencies could have a sewere impact upon the operations of the entity? Why or why not?

We believe a contingency loss, even those that could have a severe operational impact, should not be disclosed if the expected risk of loss is truly remote. In our view, the disclosure gap that currently exists relates not to remote contingencies, but primarily to contingencies whose probability of expected loss is other than remote. We believe disclosures of certain remote contingencies could be confusing, and in certain circumstances potentially misleading. To require disclosure of remotely probable losses would seem likely to distract from the objective of assisting users in assessing the likelihood, timing, and amount of future cash flows associated with loss contingencies.

We support the Board's decision to not require disclosure of remote loss contingencies that are not expected to be resolved within one year. The Board attributed this decision, in part, to cost-benefit considerations. We believe that requiring disclosure for remote contingencies to be resolved in one year similarly does not provide benefits exceeding costs.

- 4. Paragraph 10 of Statement 5 requires entities to "give an estimate of the possible loss or range of loss or state that such an estimate cannot be made." One of financial statement users' most significant concerns about disclosures under Statement 5's requirements is that the disclosures rarely include quantitative information. Rather, entities often state that the possible loss cannot be estimated. The Board decided to require entities to disclose the amount of the daim or assessment against the entity, or, if there is no daim or assessment amount, the entity's best estimate of the maximum possible exposure to loss. A dditionally, entities would be permitted, but not required, to disclose the possible loss or range of loss if they believe the amount of the daim or assessment is not representative of the entity's actual exposure.
 - a. Do you believe that this change would result in an improvement in the reporting of quantitative information about loss contingencies? Why or why not?

In part, this change would be an improvement. We support the Board's decision to require the disclosure of the stated amount of a claim or assessment. As the Board and users have pointed out, there is often a lack of quantitative contingency disclosure. We believe including the stated amount would be helpful.



We believe the desire for quantitative disclosure should not cause us to overlook the need for disclosed amounts to be sufficiently reliable. By requiring disclosure of the entity's best estimate of the maximum exposure to loss if there is no claim or assessment amount, the proposed Statement may provide users with an unreliable quantitative disclosure. That disclosure would have the potential to adversely affect users' decision making process. Even if an entity were able to reliably estimate maximum exposure to loss, this information may be prejudicial. We believe only qualitative disclosures should be required when there is no claim or assessment amount stated.

b. Do you believe that disclosing the possible loss or range of loss should be required, rather than optional, if an entity believes the amount of the daim or assessment or its best estimate of the maximum possible exposure to loss is not representative of the entity's actual exposure?

Why or why not?

We agree with the Board's decision to make this disclosure optional as it may be prejudicial.

c. If you disagree with the proposed requirements, what quantitative disclosures do you believe would best fulfill users' needs for quantitative information and at the same time not reveal significant information that may be prejudicial to an entity's position in a dispute?

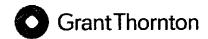
We believe disclosure of stated contingency claim or assessment amounts in combination with the tabular reconciliation, if not prejudicial, will best fulfill the needs of users for quantitative information.

5. If a loss contingency does not have a specific claim amount, will an entity be able to provide a reliable estimate of the maximum exposure to loss (as required by paragraph 7(a)) that is meaningful to users? Why or why not?

As indicated in the response above to 4.a, we believe an entity should not be required to provide an estimate of the maximum exposure to loss. We believe in most cases that the amount would be costly to prepare and of questionable value to financial statement users. In some instances, for example unasserted claims, we believe disclosing such an amount could be prejudicial.

6. Financial statement users suggested that the Board require disclosure of settlement offers made between counterparties in a dispute. The Board decided not to require that disclosure because often those offers expire quickly and may not reflect the status of negotiations only a short time later. Should disclosure of the amount of settlement offers made by either party be required? Why or why not?

We agree with the Board's decision. Aside from the factors discussed by the Board, we note that an entity will still have the ability to disclose this information if deemed relevant and reliable.



- 7. Will the tabular reconciliation of recognized loss contingencies, provided on an aggregated basis, provide useful information about loss contingencies for assessing future cash flows and understanding changes in the amounts recognized in the financial statements? Why or why not?
 - Yes, this information is clearly useful to financial statement users. Further, we support the tabular reconciliation as it moves towards convergence with IFRS disclosure requirements.
- 8. This proposed Statement includes a limited exemption from disclosing prejudicial information. Do you agree that such an exemption should be provided? Why or why not?
 - We agree that a prejudicial exemption is necessary. With respect to certain qualitative information required by paragraph 7.b, we believe this could potentially be prejudicial. In particular, we believe requiring the entity's qualitative assessment of the most likely outcome and significant assumptions used in assessing the most likely outcome should be removed from the final Statement.
- If you agree with providing a prejudicial exemption, do you agree with the two step approach in paragraph 11? Why or why not? If not, what approach would you recommend and why?
 - We believe the approach is appropriate. However, we believe the Board should better describe and provide examples of how the higher aggregation step would be applied. For instance, it is not clear to us how the qualitative disclosures would be made if higher aggregation were applied.
 - When a prejudicial exemption does apply, we agree that certain disclosures should still be required. However, we believe disclosing the maximum exposure to loss if there is no claim or assessment amount and factors likely to impact the ultimate outcome are inherently prejudicial. As such, they should be removed from the final Statement.
- 10. The International A occurring Standards Board (IASB) continues to deliberate changes to IAS 37, Provisions, Contingent Liabilities and Contingent Assets, but has not yet reconsidered the disclosure requirements. The existing disclosure requirements of IAS 37 include a prejudicial exemption with language indicating that the circumstances under which that exemption may be exercised are expected to be extremely rare. This proposed Statement includes language indicating that the circumstances under which the prejudicial exemption may be exercised are expected to be rare (instead of extremely rare). Do you agree with the Board's decision and, if so, why? If not, what do you recommend as an alternative and why?

In general, we support changes to promote convergence with IFRS. However, we believe that it would not be uncommon in practice that the second step of the prejudicial exemption would apply. As such, we believe that even use of the word "rare" could cause undue stress on the relationship between preparers and auditors. Although we understand that the Board does not want to allow preparers carte blanche in exercising the prejudicial exemption, we believe practice would be better served if



the Board further articulated the circumstances in which it should apply and not describe those circumstances as rare if they are, in fact, not expected to be rare.

Do you agree with the description of prejudicial information as information whose "disclosure... could affect, to the entity's detriment, the outcome of the contingency itself"? If not, how would you describe or define prejudicial information and why?

Yes, we agree with the description. However, as noted in response to question 9, we believe the Board should elaborate on the use of the exemption.

11. Do you believe it is operational for entities to disclose all of the proposed requirements for interim and annual reporting periods? Should the tabular reconciliation be required only annually? Why or why not?

We are not in favor of broadening the current interim disclosure requirements of Accounting Principles Board Opinion 28, Interim Financial Reporting, which provides summarized financial information in considerably less detail than that provided in annual financial statements. We note that its provisions would typically require contingency disclosures in interim periods in most situations. However, we believe that the tabular reconciliation should be required only in annual statements.

If a tabular reconciliation were required on an interim basis, it is unclear from paragraph 8 how "other loss contingencies whose underlying cause and ultimate settlement occur in the same period shall be excluded from the reconciliation" would be properly presented in interim periods.

12. Do you believe other information about loss contingencies should be disclosed that would not be required by this proposed Statement? If so, what other information would you require?

We are not aware of any other loss contingency information excluded from the proposed Statement that should be included.

13. Do you believe it is operational for entities to implement the proposed Statement in fiscal years ending after December 15, 2008? Why or why not?

We do not believe that entities can effectively implement the proposed Statement by the proposed effective date. A greater amount of time is needed for financial statement preparers, lawyers, and auditors to understand the finalized Statement once it is issued as well as to address implementation issues. Additionally, we think it would be preferable to have any issues raised by the ABA related to the required disclosures with respect to the current ABA treaty resolved well in advance of the required effective date. We believe that the earliest date that the statement should be adopted is in annual statements for fiscal years ending after December 15, 2009. We do not think under any circumstances that initial adoption should be required in an interim reporting period.



We appreciate the opportunity to comment on the Exposure Draft and would be pleased to discuss our comments with Board members or the FASB staff. If you have any questions, please contact L. Charles Evans, Partner, Accounting Principles Group at 832.476.3614

Very truly yours,

/s/ Grant Thornton LLP