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August 8, 2008

VIA E-MAIL AND USPS

Mr. Russell G. Golden **Technical Director** Financial Accounting Standards Board 401 Merritt 7 Post Office Box 5116 Norwalk, Connecticut 06856-5116

LETTER OF COMMENT NO. 184

Re: Disclosure of Certain Loss Contingencies – An Amendment of FASB Statements No. 5 and 141 (R) (the Exposure Draft); File Reference No. 1600-100

Dear Mr. Golden:

CSX Corporation (CSX) appreciates the opportunity to provide comments to the abovereferenced Exposure Draft. CSX, based in Jacksonville, Florida, is one of the nation's leading The Company's rail and intermodal businesses provide rail-based transportation companies. transportation services including traditional rail service and the transport of intermodal containers and trailers. The Company's transportation network spans approximately 21,000 miles, with service to 23 eastern states and the District of Columbia. CSX supports and joins in the comments on the Exposure Draft prepared by the Association of American Railroads (AAR). CSX's comments are intended to supplement the AAR's comments.

In recent years, the Financial Accounting Standards Board (FASB) and International Accounting Standards Board (IASB) have made concerted efforts to eliminate material differences in accounting standards. Accounting for contingencies is an area where differences still remain, and CSX appreciates the FASB's desire to move expeditiously on any proposed revisions to this standard.

In this situation, however, CSX respectfully suggests that the FASB delay implementation of any changes to Statement of Financial Accounting Standards 5, Accounting for Contingencies. This would allow the FASB time to concurrently focus on how companies recognize and measure August 8, 2008 Mr. Golden Page 2

contingencies and their related disclosures. Additionally, it would give the FASB an opportunity to work with the IASB, which also has a project underway to reconsider the requirements of International Accounting Standard 37 (IAS 37), Provisions, Contingent Liabilities and Contingent Assets.

If the FASB decides to move forward with the Exposure Draft, which would amend disclosure requirements related to contingencies, CSX believes some opportunities exist to more closely align the Exposure Draft to IAS 37. In addition, CSX respectfully provides further comments regarding the potential impact of the Exposure Draft on disclosures involving pending and potential litigation.

Reporting on matters in which likelihood of loss is considered "remote." The Exposure Draft would require disclosure of contingencies expected to be resolved within a year that could have a severe impact on the entity's financial position, even if the likelihood is remote. Requiring disclosure of these contingencies may impose burdens that outweigh the potential benefits. This requirement will inevitably increase the number of loss contingencies required to be disclosed, even though the losses are unlikely. Moreover, the discussion of "remote" matters that are, by definition, ill-quantified or less than likely, may confuse or mislead users. Finally, if a company fails to report on something remote that was not considered to have potential severe impact, and is wrong, it will inevitably be subject to criticisms based on 20-20 hindsight. This could result in an unintended source of additional litigation. Under International Financial Reporting Standards (IFRS), remote contingencies are not required to be disclosed.

Quantitative and qualitative disclosures not currently required under IFRS. The Exposure Draft significantly increases quantitative and qualitative disclosures that are not currently required under IFRS. For example, under the Exposure Draft, companies must disclose the maximum potential exposure or possible range of loss for contingencies. Also, for contingencies that cannot be reasonably estimated, the Exposure Draft states that the FASB would prefer highly uncertain estimates supplemented with a qualitative description rather than no quantification of a potential loss. Under IFRS, the maximum potential exposure or possible range of loss is not required to be disclosed. Only the estimated financial effect and any uncertainties relating to the amount or timing of any potential loss are required to be disclosed.

Quantitative and qualitative disclosures could impair a company's position in litigation. CSX is concerned that the proposed quantitative and qualitative disclosures threaten to put companies at a disadvantage in litigation. Given the adversarial nature of the United States system of justice, disclosures that require corporate defendants to lay out litigation strategies publicly provide potential advantages to adversaries in settlement negotiations and in other aspects of litigation.

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Disclosure of quantitative information concerning a best estimate of maximum exposure to loss or a possible range of loss could affect settlement discussions. As a practical matter, disclosures concerning estimated loss likely will operate as a floor for settlement discussions. This provides adversaries with information that could drive the outcome of the case, even if the lawsuit is not on file or in a preliminary stage.

Moreover, proposed disclosures concerning factors likely to affect the outcome of litigation, the timing of resolution, and significant assumptions made in estimating outcome could be used to the company's detriment in pending and future litigation. Requiring that corporate defendants lay out litigation strategies publicly may provide unintended opportunities for adversaries. Disclosed information and assessments could potentially be used in court proceedings or deemed admissions against interest. In addition, requiring qualitative or quantitative descriptions of relevant insurance or indemnification arrangements covering possible loss could be prejudicial in a litigation context, particularly if the information is disclosed to a trier of fact.

Disclosure of qualitative and quantitative information regarding pending and threatened claims could intrude on privileged advice and protected evaluations of counsel. The proposed disclosures could result in judicial findings of waiver of attorney-client privilege and attorney work product with respect to information that otherwise would be protected. Since the required disclosures are likely based on confidential communications between a company and its lawyers, there is a risk that disclosures will amount to waivers of the attorney client privilege or work product protections. In addition, since independent auditors are more likely to test these estimates and disclosures as part of their audit work, there may be an increased need to seek detailed information from counsel, posing additional waiver risks. Finally, for businesses and counsel involved in internal corporate investigations, expanded disclosure could impair the company's ability to maintain privilege and work product regarding the investigation, as well as counsel's analysis and advice.

For the above reasons, as well as those outlined in the comment letter submitted by AAR, CSX respectfully suggests that the potential impact of the Exposure Draft on disclosures involving pending or threatened litigation merits further review. CSX appreciates the opportunity to raise these concerns regarding the Exposure Draft, and appreciates the Board's consideration of the comments contained in this letter.

Sincerely,

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