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LETTER OF COMMENT NO. 147

March 30, 2009

Russell G. Golden - Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: File Reference: Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b

Dear Mr. Golden:

The Clearing House Association L.L.C. ("The Clearing House"), an association of major commercial banks,¹ appreciates the opportunity to comment on the FASB Staff Proposal FAS 115-a, FAS 124-a, and EITF 99-20-b, *Recognition and Presentation of Other-Than-Temporary Impairments* (the "Proposed FSP").

The Clearing House strongly agrees with the Board's rationale to amend FASB Statement No. 115, *Accounting for Certain Investments in Debt and Equity Securities* (FAS 115) and EITF Issue No. 99-20, *Recognition of Interest Income and Impairment on Purchased Beneficial Interests and Beneficial Interests That Continue to Be Held by a Transferor in Securitized Financial Assets* (EITF 99-20) to make the other-than-temporary impairment (OTTI) guidance more operational and to improve the presentation of other-than-temporary impairments in the financial statements. The Proposed FSP is a significant improvement of the current impairment model for debt securities, which never contemplated the significant disparity between fair value losses and credit losses resulting from the current credit crisis. The Proposed FSP greatly improves the relevance of the financial statements by aligning the impairment in earnings with the impairment in expected cash flows. The Proposed FSP also provides sufficient transparency

¹ The members of The Clearing House are: ABN AMRO Bank N.V.; Bank of America, National Association; The Bank of New York Mellon; Citibank, N.A.; Deutsche Bank Trust Company Americas; HSBC Bank USA, National Association; JPMorgan Chase Bank, National Association; UBS AG; U.S. Bank National Association; and Wells Fargo Bank, National Association.

in the financial statements for noncredit-related impairments by requiring their recognition in other comprehensive income and by requiring separate presentation on the face of the income statement. Moreover, the Proposed FSP will improve management's ability to assert to its intent and ability to hold investment securities by making those assertions more operational and auditable.

Our comments regarding the Board's specific questions are as follows:

- 1. This proposed FSP would require entities to separate (and present separately on the statement of earnings or "performance indicator") an other-than-temporary impairment of a debt security into two components when there are credit losses associated with an impaired debt security for which management asserts that it does not have the intent to sell the security and it is more likely than not that it will not have to sell the security before recovery of its cost basis. The two components would be (a) the credit component and (b) the noncredit component (residual related to other factors). Does this separate presentation provide decision-useful information?*

Response:

Yes, The Clearing House believes separate disclosure of the credit component of the other-than-temporary impairment provides useful information for users. The Proposed FSP appropriately addresses OTTI recognition determined by credit risk – that is, the risk of not collecting future cash flows according to the security's contractual terms, which is the predominant risk for a security the company does not intend to sell or will not be required to sell. Measuring OTTI equal to the difference between cost and fair value of a security results in impairment charges recognized in earnings unrelated to the risk(s) that triggered OTTI recognition (e.g., liquidity risk, interest rate risk and other market risks). We believe the credit component of the loss is the appropriate OTTI recognition model with recognition of the noncredit components (e.g., liquidity risk, interest rate risk and other market risks) in other comprehensive income (OCI).

- 2. This proposed FSP would require that the credit component of the other-than-temporary impairment of a debt security be determined by the reporting entity using its best estimate of the amount of the impairment that relates to an increase in the credit risk associated with the specific instrument. One way of estimating that amount would be to consider the measurement methodology described in paragraphs 12–16 of FASB Statement No. 114, Accounting by Creditors for Impairment of a Loan. For debt securities that are beneficial interests in securitized financial assets within the scope of Issue 99-20, the amount of the total impairment related to credit losses would be determined considering the guidance in paragraph 12(b) of Issue 99-20. Do you believe this guidance is clear and operational? Do you agree with the requirement to recognize the credit component of an other-than-temporary impairment in income and the remaining portion in other comprehensive income? Under what circumstances should the remaining portion be recognized in earnings?*

Response:

Based upon our review of the proposed guidance, The Clearing House does believe the guidance is understandable and operational. Because the proposed guidance does not introduce entirely new methodologies for the calculation of the credit component of OTTI, we believe preparers will operationally be able to use existing infrastructure to complete the calculations necessary under the proposed guidance. We continue to believe a security's credit risk requires OTTI to the extent it becomes significant enough that it is probable that cash flows will not be collected as contractually scheduled and agree with the recognition of the noncredit component of OTTI in OCI. Lastly, we agree with the circumstances under which an entity should recognize the remaining portion of OTTI in fair value as written in the proposed FSP; that is when the entity intends to sell or will be required to sell the security.

3. *This proposed FSP modifies the current indicator that, to avoid considering an impairment to be other than temporary, management must assert that it has both the intent and the ability to hold an impaired security for a period of time sufficient to allow for any anticipated recovery in fair value. The Board believes that, compared to current requirements, it is more operational for management to assert that (a) it does not have the intent to sell the security and (b) it is more likely than not that it will not have to sell the security before its recovery. Does this modification make this aspect of the other-than-temporary impairment assessment more operational (the remaining factors discussed in FSP FAS 115-1/FAS 124-1, The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments, would remain unchanged)? Should this modification apply to both debt and equity securities? Will this change result in a significant change to the assessment of whether an equity security is other-than-temporarily impaired?*

Response:

Yes, The Clearing House does believe the proposed guidance is more operational than the current requirements. Under the current requirement under FAS 115, management has to assert its intent and ability to hold the security to recovery. Management's assertion that it does not intend to sell a security within proposed guidance does not represent a change from the current requirements and we agree that if management intends to sell the asset, any OTTI should be recognized in earnings. We believe the proposed assertion regarding whether it is more likely than not that management will be required to sell will result in a more practical assertion than the assertion of intent and ability to hold to a security's recovery. This change more closely aligns management's intended economic use of the asset with the accounting for that asset and results in improved transparency. We did note inconsistencies in the specific language regarding the second assertion within paragraphs 6, 12, 13 and Appendix A3c. of the Proposed FSP and recommend the Board ensure consistency throughout the document by incorporating the following each time the management assertions are discussed; "...or it is **more likely than not** that the entity/investor **will be required** to sell the security..."

We also believe the guidance outlined in the FSP should apply to securities that have debt characteristics regardless of whether or not those securities are classified as debt or equity. Specifically, equity instruments with debt characteristics such as perpetual preferred equity

securities should be included within the scope of this project. Those securities have contractual payments and it would clearly be possible for a preparer to segregate credit losses from other changes in fair value for this type of security. Also, as the Board continues its project to determine what constitutes a liability and what constitutes equity, we believe it would be appropriate for the Board to include both debt and equity securities within the scope of this FSP.

4. *This proposed FSP would require that the portion of an impairment recognized in other comprehensive income for held-to-maturity securities be amortized (through other comprehensive income) over the remaining life of the debt security in a prospective manner based on the amount and timing of future estimated cash flows by offsetting the recorded value of the asset (that is, an entity would not be permitted to adjust the fair value of a held-to-maturity security for subsequent recoveries in the fair value of the security similar to the accounting for available-for-sale securities). Do you agree with this requirement?*

Response:

We agree with the guidance in the Proposed FSP regarding held-to-maturity securities.

5. *Is the proposed effective date of interim and annual periods after March 15, 2009, operational?*

Response:

We agree with the proposed effective date given the proposed amendment represents a significant improvement to financial reporting; we agree with the Board that the FSP should be effective immediately (first quarter for calendar-year companies) and not delayed until the second quarter.

Thank you for considering the comments provided in this letter. If you have any questions or are in need of any further information, please contact me at (212) 612-9205.

Sincerely yours,

