

#### Alcoa

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August 7, 2008

Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
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LETTER OF COMMENT NO. (do

Re: File Reference No. 1600-100, Exposure Draft, Proposed Statement of Financial Accounting Standards, "Disclosure of Certain Loss Contingencies – an amendment of FASB Statements No. 5 and 141(R)"

#### Dear Technical Director:

Alcoa Inc. appreciates the opportunity to comment on the Exposure Draft referenced above. Alcoa is the world leader in the combined production and management of primary aluminum, fabricated aluminum and alumina.

We support the Board's effort to improve financial reporting while promoting the international convergence of accounting standards. That being said, we have broad practical concerns with the Exposure Draft and are not supportive of issuance of any final standard. We are in agreement with, and have jointly signed, the response letter on this topic prepared by the Committee on Corporate Reporting of Financial Executives International, and respectfully refer the Board to the arguments articulated in that response.

If, however, the Board ultimately elects to proceed with issuance of a final standard, we believe, at a minimum, the following changes are required (arranged in the same order as the headings within the Exposure Draft).

## Disclosures - Paragraph 6

In Paragraph 6a, the Exposure Draft states that one of the criteria used to determine which loss contingencies to disclose is based on whether such contingencies are expected to be resolved in the near term, which is defined as a period not to exceed one year from the date of the financial statements. Determining which loss contingencies are expected to be resolved in the next year would involve significant guesswork because of all of the different avenues that can be taken by both parties in the process of resolving a claim or dispute. Also, it would seem that a user of an entity's financial statements would want to know of any loss contingency that could have a severe impact on an entity's financial statements regardless of timing, not just those anticipated to settle within one year.

As such, we are asking the FASB Staff to consider revising Paragraph 6 to the following:

"Notwithstanding the guidance in paragraph 5, an entity shall disclose a loss contingency, or a combination of loss contingencies, regardless of the likelihood of loss, if the contingency or contingencies could have a severe impact on the entity's financial position, cash flows, or results of operations. Additionally, entities shall disclose if the contingency or contingencies are expected to be resolved in the near term, if that is known with reasonable certainty."

# Disclosures - Paragraph 7

The disclosures that would be required by Paragraph 7a(2), 7b, and 7c present several significant issues. Disclosing such information in a public document is particularly troubling because this information can be used by the opposing party to a claim or dispute as "evidence" during the process to resolve the issue. These types of disclosures would provide too much insight into the details, strategy, and tactics of a claim or dispute that the opposing party would have access to and could jeopardize the outcome of the claim/dispute and/or settlement negotiations, to the detriment of a company's shareholders.

Additionally, once a particular claim or dispute is resolved, looking back at the disclosures that were made regarding this loss contingency in an entity's financial statements would show that a lot of the information that was provided to the users of the financial statements in good faith turned out to be incorrect based upon the final outcome. That being said, the user of an entity's financial statements would not be given much comfort going forward as new loss contingencies are disclosed that the information provided will end up even being remotely close to the final outcome. We fear that the end result of this will be increasingly more confusion among investors.

We realize that there is a provision in Paragraph 11 of this Exposure Draft regarding the disclosure of prejudicial information that addresses some of the concerns outlined above; however, it is stated that this exception should be a rare occurrence. We believe that prejudicial information is a much more common occurrence in claims and disputes, and, therefore, allowing an entity to only use the disclosure exception on a rare occurrence seems to undermine the privacy and privileges afforded to the claim and dispute process. The process of resolving loss contingencies is far from an exact science but that is what these types of disclosures seem to be trying to achieve.

Accordingly, we would strongly encourage the Board to drop the disclosure requirements of 7(a) (2) altogether. In 7(b), for reasons stated above, we would oppose the requirement for disclosure of the anticipated timing of dispute resolution. In addition, we would strongly recommend that the detailed disclosures in 7(c) of the terms of relevant insurance arrangements be dropped as disclosures of deductibles, caps and other limitations may only serve to confuse users in their attempt to estimate potential insurance recoveries. We at Alcoa have significant experience in this area over the last two years as we have had a number of sizable property damage and business interruption

claims. Even with the information that we have internally, our own estimates of insurance recoveries have moved by tens of millions of dollars due to the complicated negotiations with the carriers, particularly over business interruption claims. The disclosure of caps, limitations, deductibles, etc. in an attempt to provide users with data to estimate recoveries would vastly oversimplify the numerous complexities with this process. We would be more than willing to discuss the specifics of some of these issues with the FASB staff if they are interested in more details.

Therefore, we would ask the Board to consider revising Paragraph 7 to the following:

"An entity shall disclose the following information about loss contingencies required to be disclosed under paragraph 5 or 6:

- a. Quantitative information about the entity's exposure to loss from the contingency (including any amounts already recognized in the financial statements but excluding any recoveries recognized under paragraph 7(c)). This information would include the amount of the claim or assessment against the entity (including damages, such as treble or punitive damages), if applicable. An entity also may disclose its best estimate of the possible loss or range of loss if it believes that the amount of the claim or assessment or the maximum exposure to loss is not representative of the entity's actual exposure.
- b. Qualitative information about the contingency sufficient to enable users to understand the risks posed to the entity. This information shall include, at a minimum, a description of the contingency, including how it arose, its legal or contractual basis, and its current status.
- c. The total amount of recoveries from insurance or indemnification arrangements recognized, if any, related to the loss contingency.

The disclosures required by this paragraph may be aggregated by the nature of the loss contingency (for example, product liability or antitrust matters)."

## **Effective Date and Transition**

We believe it would be helpful for preparers if the provisions of this Exposure Draft were made effective no earlier than the end of 2009. This will give preparers more time to determine and draft the additional information that would need to be disclosed for all outstanding loss contingencies. It will also allow preparers to institute any necessary policies and procedures resulting from the additional disclosures.

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Thank you for allowing us the opportunity to present our views on this Exposure Draft. Please contact me at 412 553 4521 or Jack Klingler, Director of Financial Accounting, at 412 553 1629 if you would like us to clarify any of our comments.

Sincerely,

Tony R. Thene

Vice President and Controller