



LETTER OF COMMENT NO. 103

Sent: Friday, March 27, 2009 8:00:00 AM
To: Adrian Mills; Diane Inzano; Joseph Vernuccio; Kevin Stoklosa; Kristofer Anderson; Mark Trench; Meghan Clark; Peter Proestakes; Russell Golden; Vita Martin; Wade Fanning
Subject: FW: File Reference: Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b (Recognition and Presentation of Other-Than-Temporary Impairments)
Attachments: Picture (Metafile); Picture (Metafile)

From: Bill Bosies [mailto:bbosies@nyba.com]
Sent: Thursday, March 26, 2009 5:11 PM
To: Director - FASB
Subject: File Reference: Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b (Recognition and Presentation of Other-Than-Temporary Impairments)



Michael P. Smith
President & CEO
New York Bankers Association
99 Park Avenue, 4th Floor
New York, NY 10016-1502
(212) 297-1699/msmith@nyba.com

March 26, 2009

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

Via e-mail: director@fasb.org

Re: File Reference: Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b (Recognition and Presentation of Other-Than-Temporary Impairments)

To the Technical Director:

In response to the request for comments issued by the Board on Proposed FASB Staff Positions FAS 115-a, FAS 124-a, and EITF 99-20-b, the New York Bankers Association is submitting these comments **strongly supporting the amendments** to the guidance on

3/27/2009

recognition and presentation of other-than-temporary impairments. Our Association believes that this interpretation will address several areas of confusion with regard to other-than-temporary impairments (OTTI) of debt securities classified as available-for-sale or held-to-maturity. We urge that the interpretation be made final and applicable no later than to reporting periods ending after December 15, 2008. Our Association is comprised of the community, regional and money center commercial banks and thrift institutions doing business in New York State. Our members have almost 300,000 New York employees and aggregate assets in excess of \$9 trillion.

This proposal would provide further guidance aimed at achieving more consistent determinations of whether OTTI has occurred. The original guidance provided in EITF 99-20, either through confusion or misinterpretation, has, we believe inadvertently, contributed in major respects to the depth and severity of the current recession. EITF 99-20-A, issued earlier this year, was helpful in beginning the process of correcting some of this confusion, but, as recognized by the Board at the time, was only the beginning of a process of needed reexamination.

We understand that many assets which are being held on the books of financial institutions, even though performing in every respect as anticipated when acquired, may be required to be marked down to sometimes non-existent or highly questionable market values. These mark-downs are occurring even in circumstances where institutions have no intention of disposing of assets and may have every capability of holding them to maturity. As a result, the current interpretation of EITF 99-20 is reinforcing the downward pressure on financial institution balance sheets.

We believe the provisions of the proposal would materially enhance the guidance provided for public and non-public reporters using generally accepted accounting principles. The proposed new staff positions would address some, but not all, of these problems in EITF 99-20 by clarifying the circumstances in which management may demonstrate that an asset is not subject to other than temporary impairment, and by separating any impairment into credit losses and other than credit losses (such as losses due to market instability). Credit losses will be required to be run through earnings, while other than credit losses will need to be included in "other comprehensive income."

These amendments will, we believe, enhance the ability of financial institutions to present an accurate picture on their balance sheets of anticipated losses and of the true value of assets subject to other-than-temporary impairment. However, the proposal will continue to leave unaddressed a number of concerns that have arisen with regard to the applicability of EITF Issue No. 99-20 to the types of volatile, tumultuous and little predictable debt markets that financial institutions experienced during the 3rd and 4th quarters of last year. We strongly urge the Board to continue to examine other aspects of the applicability of EITF Issue No. 99-20 and its relations to FAS 115 and 124 under current market and financial conditions.

It is also critically important that this guidance apply to the earliest reporting periods possible. The 3rd and 4th quarters of 2008 involved some of the most extraordinary reporting challenges in recent memory and we believe that this proposal would assist financial reporters in addressing some of these challenges. **We therefore urge the Board not to delay the effectiveness of the proposal until the first quarter of 2009, as proposed, but allow**

reporters to begin using it for reporting periods ending no later than after December 15, the period during which the Board recognized the need to amend its interpretation of EITF 99-20 through its adoption of EITF 99-20-a. We urge that the Board consider allowing revisions of financial statements to make the proposal applicable even earlier.

In addition, our Association supports the specific comments provided by the American Bankers Association in its letter of March 24, 2009. We anticipate providing comments on proposed FAS 157-e on determining whether a market is not active and a transaction is not distressed, prior to the conclusion of the comment period.

Sincerely,



Michael P. Smith

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