



STATE OF NEW YORK
BANKING DEPARTMENT
ONE STATE STREET PLAZA
NEW YORK, NY 10004



LETTER OF COMMENT NO.

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October 9, 2008

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

Attention: Technical Director; File Reference: Proposed FSP FAS 157-d

By email

Dear Mr. Golden:

The New York State Banking Department (the "Department") has reviewed the proposed FASB Staff Position and appreciates the opportunity to present the following comments.

Within the existing FASB Statement (FAS) 157 framework, the Department does not object to the amendment, which is consistent with the principles of FAS 157 and may clarify certain situations for financial statement preparers and external auditors.

The Department believes, however, that attempting to value financial instruments when there are no observable inputs will continue to result in widely-varying conclusions, significant misunderstandings, and persistent calls to eliminate the use of all fair values within financial statements. We also question whether "fair value" based on unobservable inputs, multiple assumptions, or hypothetical analysis truly represents fair value.

The Department recommends that instruments with no observable inputs (i.e., Level 3 under FAS 157) should be recorded at the lower of cost or fair value when inputs were last observable. Although this could be criticized for avoiding further write-downs in the current environment, it both increases reliability in financial statement balances and reduces earnings management under better economic conditions. Such instruments would be subject to other than temporary impairment write-downs which are based on individual facts and circumstances.

This recommended approach should also be discussed with the International Accounting Standards Board to enhance convergence.

If you would like to discuss our letter, please call me at (212) 709-1532 or email me at john.mcenerney@banking.state.ny.us.

Very truly yours,

John McEnerney
Chief of Regulatory Accounting