JPMorgan Chase & Co.

Shannon S. Warren Managing Director Corporate Accounting Policies

December 5, 2008

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



Re: File Reference No. 1240-100

Exposure Draft - Earnings per Share, Proposed Amendment of FASB Statement No. 128

Dear Mr. Golden:

JPMorgan Chase & Co. (the "Firm") appreciates the opportunity to comment on the Financial Accounting Standards Board's (the "Board") August 7, 2008, Exposure Draft of the Proposed Statement of Financial Accounting Standards, Earnings per Share an amendment of FASB Statement No. 128 (the "Exposure Draft"). The Firm is both a user and preparer of financial statements and our comments reflect our views from both perspectives.

The Firm's most significant comment is that the Board should incorporate the guidance from the recently-issued FASB Staff Position EITF 03-6-1, *Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities* (the "FSP") into the Exposure Draft. In a separate letter dated December 5, 2008, the Firm recommended that the Board rescind the FSP and address all earnings per share ("EPS") issues comprehensively in the Exposure Draft. Issuing guidance on a piecemeal basis will potentially require an entity to restate reported EPS multiple times, possibly within a short time frame. The Firm's other comments on the Exposure Draft are discussed in more detail below and in the attached Appendix.

DIVIDENDS ON FORFEITABLE STOCK-BASED COMPENSATION

Under the FSP, all unvested share-based payments classified as equity awards that distribute nonforfeitable dividends or dividend equivalents are considered participating securities. Further guidance provided under the Exposure Draft stipulates that participating securities are required to be included in the denominator of basic EPS using the two-class method and diluted EPS using the more dilutive of either the two-class or treasury stock method. Dividends paid on these nonvested awards are accounted for as compensation expense under paragraph A37 of FASB Statement No. 123(R), Share-Based Payment. The Board should require consistent treatment of nonvested awards and their related dividend payments in the EPS calculation. In the situation where the nonvested shares participate in dividends at the same rate as the entity's common shares, a company would report a different EPS amount under the Exposure Draft for the nonvested awards, even though those awards participate in earnings pari passu with the common shares. In order to avoid this distortion, the compensation expense related to forfeitable awards should be added back to the EPS numerator.

JPMORGAN CHASE & CO.

COMPUTATIONAL GUIDANCE

Shortly after the Board issued the initial Exposure Draft of the FSP, it issued a second proposed FSP—FSP No. 128-a, Computational Guidance for Computing Diluted EPS under the Two-Class Method ("FSP No. 128-a"). FSP No. 128-a included an example on "Common Stock with Participating Nonvested Shares." This is the only example from the proposed FSP No. 128-a that was not included in the Exposure Draft. We believe that it would be useful to include such an example because share-based payment transactions would typically have unique considerations in the EPS calculation. To make the example that was originally included in FSP No. 128-a more realistic, the Board should assume a forfeiture rate in any example that it incorporates into the Exposure Draft. We believe that this would be useful, since it would serve as both an illustration and a reminder of the fact that estimated forfeitures are recognized for accounting purposes but their effects are ignored in the EPS calculation. The example could also illustrate the Firm's previous suggestion about the treatment of nonforfeitable dividends on forfeitable awards.

EXPOSURE DRAFT CLARIFICATIONS

The following are two clarifications the Firm believes would be more consistent with the Board's intentions for this Exposure Draft:

- To be consistent with the overall change in the treasury stock methodology described in paragraph 8 of the Exposure Draft, paragraph 21 should be expanded to note that assumed proceeds include the end-of-period carrying value of a liability that is expected to be share settled and that is not measured at fair value each period through earnings. For a number of entities, this guidance would be applicable to share-based payment awards granted to retirement-eligible employees; such awards are accrued over the requisite service period which is prior to the grant date.
- Additionally for purposes of consistency, paragraph 24.b. should be revised to read, "The end-of-period proceeds from issuance shall be assumed to be used to satisfy the contract (that is, to buy back shares)."

If you have any questions or would like to discuss our comments further, please do not hesitate to contact me at 212-648-0906 or Nicole Karagheuzoff at 212-649-0381.

Sincerely yours,

Thanan & Warrer

JPMorgan Chase & Co.

Appendix

1. In this proposed Statement, an entity would not include in the denominator of diluted EPS the number of additional common shares that would arise from the assumed exercise or conversion of certain freestanding instruments (or a component of certain compound instruments that is accounted for as if it were freestanding) that are measured at fair value each period with changes in fair value recognized in earnings Similarly, an entity would not include in the computation of basic and diluted EPS under the two-class method certain participating securities that are measured at fair value each period with changes in fair value recognized in earnings. The Board concluded that the effect of those instruments on current shareholders during the period has been reflected in the numerator of basic and diluted EPS through the changes in fair value recognized in earnings. Do you agree that the fair value changes sufficiently reflect the effect of those instruments on current shareholders and that recognizing those changes in earnings eliminates the need to include those instruments in determining the denominator of diluted EPS or in computing EPS under the two-class method? If not, why not?

We agree excluding instruments recorded at fair value from the denominator of diluted EPS is appropriate given the current economic impact of these instruments is already reflected in the numerator (net income).

2. In computing diluted EPS, dilutive potential common shares and potential participating securities are assumed to be outstanding. This proposed Statement would clarify that an entity would not reduce income from continuing operations (or net income) by the amount of additional dividends that would be assumed to be declared for potential common shares or potential participating securities that are assumed to be outstanding. The Board reasoned that an entity may make a different decision on the per-share amount of dividends declared if that per-share amount was distributed to all potential common shares or participating securities. Do you agree? If not, why not?

We agree with the Board's conclusion that an entity may make a different decision about its dividend payout rate if that per-share amount was to be distributed on all potential common shares or participating securities.

3. The Board decided that the amendments in this proposed Statement would not warrant additional disclosures beyond those already required by U.S. GAAP (for example, Statement 128, FASB Statement No. 129, Disclosure of Information about Capital Structure, and EITF Issue No. 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock"). Do you agree that additional disclosures are not warranted? If not, what additional disclosures should be required and why?

We agree that the additional disclosure requirements are not necessary and would not provide financial statement users with more meaningful information.