



Deloitte & Touche LLP
Ten Westport Road
P.O. Box 820
Wilton, CT 06897
USA
www.deloitte.com

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



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LETTER OF COMMENT NO. 222

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

Dear Mr. Golden:

Deloitte & Touche LLP is pleased to comment on proposed FASB Staff Position (FSP) No. FAS 115-a, FAS 124-a, and EITF 99-20-b, "Recognition and Presentation of Other-Than-Temporary Impairments" (the "proposed FSP").

We support the Board's efforts to simplify and improve the accounting standards for the reporting of investments in debt and equity securities. We believe the proposed FSP makes the other-than-temporary guidance more operational and improves the presentation of other-than-temporary impairment (OTTI) in the financial statements. The proposed FSP also benefits preparers of financial statements by giving them appropriate relief from the impact of the fair value measurements in the current market environment without significantly reducing the transparency that investors and other users of financial statements seek. However, while we support the issuance of the proposed FSP as a final standard, we recommend that the FASB make certain changes to it to address concerns relating to (1) the application of the proposed FSP to equity securities, (2) the determination of credit losses, (3) implications resulting from an entity's intent to sell a security, and (4) the effective date and transition.

Application of the Proposed FSP to Equity Securities

The proposed FSP is unclear on how an entity is required to assess and measure an OTTI for equity securities when an entity does not intend to sell, or when it is not more likely than not it will be required to sell, the securities. One area of uncertainty is whether the determination of the period to estimated recovery is affected by the change in focus from management's having the intent and ability to hold equity securities until forecasted recovery to management's having an intent to sell before forecasted recovery. Further, it is unclear how the proposed FSP interacts with other related guidance (e.g., SEC Staff Accounting Bulletin (SAB) Topic 5.M, "Other Than Temporary Impairment of Certain Investments in Debt and Equity Securities"). In addition, the proposed FSP creates uncertainty about how to measure OTTI for equity securities when an entity does not intend to sell, or it is not more likely than not that it will be required to sell, the securities. That is, the proposed FSP does not address how to measure OTTI for such equity securities and deletes the existing OTTI measurement guidance in FASB Statement No. 115, *Accounting for Certain Investments in Debt and Equity Securities*, and FASB Staff Position (FSP) FAS 115-1 and FAS 124-1, "The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments." Lastly, we note that the issues that have arisen in practice generally do not relate to equity securities, but rather to debt securities. Accordingly, we believe the scope of the proposed FSP could be limited to debt securities.

Nevertheless, if the Board proceeds with the existing scope of the proposed FSP, we recommend that the Board (1) incorporate the related guidance in SAB Topic 5.M into the final standard, as appropriate, and (2) illustrate the interaction of the new guidance with the guidance in SAB Topic 5.M. We believe that by incorporating the related guidance into the FSP, the Board will clarify its intent regarding when to recognize OTTI for both debt and equity securities. Further, the Board should clarify how to measure OTTI for equity securities when an entity does not intend to sell, or it is not more likely than not that it will be required to sell, the securities.

Determination of Credit Losses

The proposed FSP requires entities to separate the amount of the OTTI related to “credit losses” and recognize those losses in earnings for debt securities that the entity does not intend to sell or for which it is more likely than not that the entity will not be required to sell. We believe the term “credit loss” is unclear and may result in diversity in practice on how entities determine that amount. Accordingly, we encourage the Board to consider requiring an approach for determining credit losses for held-to-maturity (HTM) and available-for-sale (AFS) debt securities that is similar to the model for loans under FASB Statement No. 114, *Accounting by Creditors for Impairment of a Loan*. Such approach would also improve consistency in the accounting models applicable to debt securities and loan assets under U.S. GAAP. Under this approach, the final standard would specify that the amount to be recognized in earnings would be the difference between the security’s amortized cost and the present value of expected future cash flows discounted at the debt security’s effective interest rate.

In addition, HTM debt securities that an entity does not intend to sell, or for which it is more likely than not that the entity will not be required to sell, should not be recorded at fair value on the balance sheet when an incurred loss has occurred. In these situations, the entity should be required to record the incurred loss amount in earnings and should record no other amounts associated with fair value in other comprehensive income. This approach would converge the measurement of impairment for HTM debt securities in U.S. GAAP with the model in IAS 39, *Financial Instruments: Recognition and Measurement*. Furthermore, it avoids the unnecessary complexity of separating incurred losses and other fair value losses and creating a new accounting model for recording and amortizing the nonincurred loss component of an HTM debt security in other comprehensive income. If the purpose of requiring recognition of the “noncredit” component of the impairment for HTM securities in other comprehensive income is to achieve transparency, this objective could be accomplished with disclosure. If the purpose is to provide a disincentive for transferring impaired AFS securities to the HTM classification, the classification as an HTM security and an entity’s potential tainting of that classification upon selling those securities before maturity provides sufficient disincentive for not transferring securities to the HTM classification. HTM securities would only be recorded on the balance sheet at fair value when an entity intends to sell them or it is more likely than not that the entity will be required to sell the HTM securities.

Our recommendations do not address recoveries. We acknowledge that the FASB is working on a recoveries project and we recommend continued effort on that project. We do not believe that the timeline of the recoveries project needs to be the same as the timeline of the proposed FSP. Any potential guidance regarding recoveries could be postponed until later in the year.

Intent to Sell

Without further clarification in the final FSP, the “intent to sell” notion in the proposed FSP may raise significant implementation questions. For instance, if an entity does not plan to sell a particular security as

of the measurement date but will manage its portfolio and expects to sell securities not yet specifically identified in the future, is the security other than temporarily impaired (assuming fair value is below carrying value)? In addition, the proposed FSP is not clear about how the "intent to sell" notion would apply to entities that have outsourced their investment portfolio activity to a third-party investment manager (i.e., decisions to buy and sell securities are made by a third-party investment manager and not by the entity). Since an entity could always assert that it does not plan to sell a security, would the entity ever record an OTTI unless it had an incurred loss? In contrast, is it the Board's intent to require ongoing OTTIs for these securities based on the fact that management does not control the investment (and disposition) decisions?

In addition, the proposed FSP is unclear on whether an entity's assertion that it does not intend to sell is called into question if shortly after the measurement date the entity sells the particular security. That is, does the sale of the security call into question the entity's assertion regarding other securities it does not intend to sell?

Lastly, we do not believe the language in paragraphs 12 and 13 of the proposed FSP is consistent with the Board's intent to change the focus of the requirements for triggering an OTTI such that an OTTI has not occurred (assuming no credit losses) if management asserts "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**" (emphasis added). In describing "more likely than not that an entity will not sell," paragraphs 12 and 13 do not use the words "will be required to sell" or "will have to sell." Thus, these paragraphs leave the impression that the assessment is based on a probability of whether the entity will ever sell; they do not address whether factors outside the entity's control will force it to sell such securities, as intended by the Board. This is similar to other existing OTTI guidance in which OTTI is triggered when an action is "probable" and not "more likely than not." Accordingly, we believe the Board should consider using a "probable" model under the proposed FSP.

Effective Date and Transition

We are concerned that because of the timing of a potential final FSP, some entities may find it difficult to implement the proposed FSP's requirements by the proposed effective date (i.e., interim and annual periods ending after March 15, 2009). Accordingly, we suggest that the FASB extend the effective date to interim and annual periods ending after June 15, 2009, with early adoption permitted. We believe this effective date approach has the flexibility of allowing entities that are (1) capable of early adopting the proposed FSP to do so for periods ending after March 15, 2009, and (2) not capable of early adopting the proposed FSP to delay their implementation to periods ending after June 15, 2009.

In addition, the FASB should consider allowing entities to initially apply the provisions of the final standard to instruments existing as of the effective date by recording the remeasurement of those instruments as a cumulative-effect adjustment to the opening balance of retained earnings.

The Appendix below contains our responses to the questions posed by the FASB in the proposed FSP's Notice for Recipients.

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Deloitte & Touche LLP appreciates the opportunity to comment on the proposed FSP. If you have any questions concerning our comments, please contact John Sarno at (203) 761-3433.

Yours truly,

Deloitte & Touche LLP

cc: Robert Uhl

APPENDIX
Deloitte & Touche LLP
Responses to Notice for Recipients

Issue 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?

As we noted in the cover letter, while we agree that the separation of the "credit" and "noncredit" component of an OTTI provides decision-useful information, we do not believe that an entity should recognize the "noncredit" component of OTTI for a HTM debt security. That is, an entity should only record the "credit" component in earnings. Consequently, HTM debt securities that an entity does not intend to sell, or for which it is more likely than not that the entity will not be required to sell, should not be recorded at fair value on the balance sheet when a credit loss has occurred. In addition, we believe the term "credit loss" is unclear and may result in diversity in practice on how entities determine that amount. Accordingly, we encourage the Board to consider requiring an incurred loss approach for HTM and AFS debt securities that is similar to the impairment model for loans under Statement 114. Under this approach, the final standard would specify that the amount to be recognized in earnings would be the difference between the security's amortized cost and the present value of expected future cash flows discounted at the debt security's effective interest rate.

Issue 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?

We agree with the requirement to recognize the "credit" component of an OTTI in earnings and the remaining portion in other comprehensive income for AFS debt securities. However, we do not believe that an entity should recognize the "noncredit" component of an OTTI for a HTM debt security in other comprehensive income. That is, an entity should only record the "credit" component in earnings. We believe that recording the "noncredit" component of an OTTI for an HTM debt security in other comprehensive income causes undue complexity and creates an unnecessary new accounting model for recording and amortizing the "noncredit" component of an HTM debt security in other comprehensive income.

In addition, we encourage the Board to consider requiring a loss approach for HTM and AFS debt securities that is similar to the impairment model for loans under Statement 114. Such an approach would also improve consistency in the accounting models applicable to debt securities and loan assets under

U.S. GAAP and advance convergence with International Financial Reporting Standards (IFRSs). Under this approach, the final standard would specify that the amount to be recognized in earnings would be the difference between the security's amortized cost and the present value of expected future cash flows discounted at the debt security's effective interest rate (i.e., the incurred loss amount).

Issue 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?

The proposed FSP is unclear on how an entity is required to assess and measure an OTTI for equity securities when an entity does not intend to sell, or when it is not more likely than not it will be required to sell, the securities. One area of uncertainty is whether the determination of the period to estimated recovery is affected by the change in focus from management's having the intent and ability to hold equity securities until forecasted recovery to management's having an intent to sell before forecasted recovery. Further, it is unclear how the proposed FSP interacts with other related guidance (e.g., SAB Topic 5M). Lastly, the proposed FSP creates uncertainty about how to measure OTTI for equity securities when an entity does not intend to sell, or it is not more likely than not that it will be required to sell, the securities.

In addition, we are concerned that without further clarification in the final FSP, the "intent to sell" notion in the proposed FSP may raise significant implementation questions. For instance, if an entity does not intend to sell a particular security as of the measurement date, and its policies and procedures include periodic reassessments of its portfolio in the future (which may lead the entity to change its intent with respect to selling the security), is the security other than temporarily impaired (assuming fair value is below carrying value)? The FSP is also unclear about how the "intent to sell" notion would apply to entities that have outsourced their investment portfolio activity to a third-party investment manager (i.e., decisions to buy and sell securities are made by the investment manager and not by the entity). Since an entity could always assert that it does not plan to sell a security, would the entity ever record an OTTI unless it had a "credit" loss? Lastly, the proposed FSP is unclear on whether an entity's assertion that it does not intend to sell is called into question if shortly after the measurement date the entity sells the particular security. That is, does the sale of the security call into question the entity's assertion regarding other securities it does not intend to sell?

Further, we do not believe the language in paragraphs 12 and 13 of the proposed FSP is consistent with the Board's intent to change the focus of the requirements for triggering an OTTI such that an OTTI has not occurred (assuming no credit losses) if management asserts "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**" (emphasis added). In describing "more likely than not that an entity will not sell," paragraphs 12 and 13 do not use the words "will be required to sell" or "will have to sell." Thus, these paragraphs leave the impression that the assessment is based on a probability of whether the entity will ever sell; they

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do not address whether factors outside the entity's control will force it to sell such securities as intended by the Board.

Issue 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?

As noted in the cover letter, we do not agree with this requirement.

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

We are concerned that some entities may find it difficult to implement the proposed FSP's requirements by the proposed effective date. Accordingly, we suggest that the FASB extend the effective date to interim and annual periods ending after June 15, 2009, with early adoption permitted. We believe this effective date approach has the flexibility of allowing entities that are (1) capable of early adopting the proposed FSP to do so for periods ending after March 15, 2009, and (2) not capable of early adopting the proposed FSP to delay their implementation to periods ending after June 15, 2009.