Temple-Inland

September 10, 2010

TRANSMITTED ELECTRONICALLY TO: director@fasb.org

Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
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File Reference: No. 1840-100 – Comments to the Exposure Draft Related to Disclosure of Certain Loss Contingencies

Dear Technical Director:

Thank you for the opportunity to comment on the latest Exposure Draft dated July 20, 2010 related to disclosures of certain loss contingencies ("latest draft"). Temple-Inland is a large manufacturer of corrugated packaging and building products. We are dedicated to supporting the appropriate balance between meaningful disclosure of certain loss contingencies that is useful to financial statement users and protecting financial statement issuers from the disclosure of prejudicial information. While the latest draft is an improvement over the June 2008 proposals, it still contains serious flaws and should not be implemented as currently drafted. This letter contains a summary of some of our most serious concerns that should be taken into consideration.

Required Disclosure of Prejudicial Information: The latest draft would still require the disclosure of prejudicial information, but does not contain the explicit exemption from disclosing prejudicial information that was included in the 2008 exposure draft. The latest draft, through its requirements for expanded qualitative and quantitative disclosures and the requirement for a tabular reconciliation of recognized loss contingencies, would require the disclosure of information that current and potential plaintiffs could use to gain an unfair advantage in litigation against the preparer. For entities with limited litigation or with litigation that occurs in categories that cannot be aggregated, the level of information required would provide a plaintiff or potential plaintiff with insight into the preparer's view of its potential exposure in individual cases or categories of cases. Even in the case of an aggregation of many cases, knowledge of the number of lawsuits and the company's view of the overall potential exposure provides enough information to a plaintiff or potential plaintiff to estimate the company's view of exposure in any individual case.

The additional level of detail required in the proposed disclosures would provide investors with very little additional value in the information they receive but

TempleInland

September 10, 2010 Page 2

would prejudice the preparer and possibly reduce the value of the investment by harming the company's ability to settle lawsuits for the least possible exposure.

If, however, the final standards require the disclosure of prejudicial information as described above, then we strongly request that the Board include an exemption from the disclosure of prejudicial information similar to the one contained in the June 2008 exposure draft.

• Remote Contingencies: The Board decided to substantially retain the June 2008 proposed requirements related to disclosure of remote contingencies that may have a severe impact. The current standard recognizes that if it is not reasonably possible that a loss has been incurred, then the information is not valuable to an investor. Despite whether the remote loss's impact could be severe, the loss is still remote and will not reasonably come to pass. If it is not at least reasonably possible that the loss has occurred, its disclosure would likely be misleading to an investor, regardless of its potential impact. Investors, despite their level of sophistication, may not be fully aware of or may not understand the nuances of the newly proposed standards and may overreact to the new disclosures. This will cause greater volatility in the market value of companies.

In addition, because the proposed requirements are very subjective in asking entities to "exercise judgment in assessing its specific facts and circumstances to determine whether disclosure about a remote contingency is necessary," differences in entities' decisions to report or not report remote contingencies will cause greater confusion, uncertainty and unreliability in the available information to investors. While current standards are already difficult to audit, it seems the inherent subjectivity of such judgments would make this information even more difficult, if not impossible, to audit.

• Insurance Coverage/Indemnity Issues: The latest draft requires that potential recoveries from insurance and indemnity arrangements should not be offset against potential contingencies when assessing the materiality of the contingency for disclosure purposes. The Board points out that "insurance coverage often is uncertain and may be subject to litigation with the insurer." Therefore, due to this uncertainty, the Board disallows the offset. While insurance coverage may be disputed in some cases, preparers generally analyze loss contingencies on a net basis, and assessing any recoveries is part and parcel to assessing the loss contingency. To require separate disclosure of these items on a gross basis runs the risk of misleading a financial statement user by overstating potential loss contingencies that may have no impact on the preparer. Further, insurers are generally bound by good faith obligations to provide the contracted coverage and there is often no coverage dispute. Disregarding available coverage when coverage is undisputed inherently overstates the amount of the potential loss.

Temple-Inland

September 10, 2010 Page 3

The corresponding proposal to disclose possible insurance and other recoveries if they are discoverable is highly prejudicial to the preparer. In many cases, despite its discoverability, it has not been disclosed to the plaintiff and would not be available to other potential plaintiffs. By making the information publicly available, the preparer is not only prejudiced in any ongoing litigation where the information has not been provided to the plaintiff, but is also at risk for additional claims because other plaintiffs will now be aware of the potential insurance coverage. This will cause an overall increase in litigation, which will lower the value of the overall investment to the investor. Again, any gain to the investor in the additional information is significantly outweighed by the prejudice to the preparer, which could lead to a loss in the value in the investment if additional litigation ensues or current plaintiffs sense additional value in their claims.

- Damages Claimed: The latest draft's requirement that expert witness testimony as to the amount of damages be disclosed if this information is publicly available is prejudicial to the disclosing entity and will be misleading to investors. The opinions of experts on levels of damages will often range significantly. Therefore, the opinion of one expert can often be highly inflated and the opinion of his counter part highly understated. However, because it is the opinion of an "expert", investors unfamiliar with the normal litigation process may tie too much credence to such number and will be misled in their calculations of the likely loss. While this information may be available publicly, it is not readily available to investors unless required in these disclosures.
- Attorney-Client Privilege and Work Product Protections: The new disclosures required by the proposed requirements as described above contain subjective information that, when audited, could lead to loss of attorney-client privilege and work product protections as many of the comments to the June 2008 exposure draft clearly explained. While the risk of such loss is lessened in the latest draft due to removal of certain requirements such as "the entity's best estimate of the maximum exposure to loss," there is still substantial risk of loss of these protections during an audit because there is still new subjective information that is required of entities that will cause auditors to seek new privileged and work product information from an entity. As previously pointed out by other commenters, once those protections are lost, plaintiffs are at an enormous advantage in knowing the strengths and weaknesses of the entity's litigation position.
- Unasserted Claims and Assessments: Currently, unasserted claims and assessments need not be disclosed unless it is probable that the claim will be asserted and there is a reasonable possibility that the outcome will be unfavorable. The latest draft maintains these limitations but highlights that an entity should consider all information of which it is aware when determining the degree of probability that a claim will be asserted and an unfavorable outcome could occur.

TempleInland

September 10, 2010 Page 4

This slight change in emphasis could result in auditors seeking additional information concerning such matters and affect disclosure practices or requests for information about such matters from outside counsel, which currently are limited by the ABA Statement of Policy Regarding Lawyers' Responses to Auditors' Request for Information.

Temple-Inland agrees with the American Bar Association's ("ABA") views in its August 5, 2008 comment to the June 2008 exposure draft that the "existing standard of [ASC 450] works reasonably well and strikes the right balance between competing interests." As the ABA goes on to explain, it is already difficult to meet disclosure standards and protect the legal position of a preparer in litigation. While difficult to meet, preparers have spent enormous time in determining how to meet the standards and have found the proper balance between disclosure and protection of shareholder value in the current approach. Without more evidence than has currently been presented that the current standards unfairly limit the information provided to investors, Temple-Inland feels strongly that the proposals in the latest draft should not be adopted and that the current standards should remain in place. The proposed disclosure requirements will not provide value to the investor. The additional value the investor receives through the new information will be more than offset by the decrease in value of its investment as companies experience increased losses as they become less able to defend their lawsuits.

We would be happy to discuss our views further with FASB at your convenience.

Very truly yours,

C. Morris Davis General Counsel Troy L. Hester

Corporate Controller and Principal Accounting Officer