BIOMARIN®

September 16, 2010

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

Sent via email to director@fasb.org

Re: File Reference No. 1840-100: Response to Proposed Accounting Standards Update of Topic 450 (Disclosure of Certain Loss Contingencies)

Dear Mr. Golden:

BioMarin Pharmaceutical Inc. is a global pharmaceutical company that develops and commercializes innovative biopharmaceuticals for serious diseases and medical conditions. BioMarin is a publically traded company listed on the Nasdaq Global Select Market under the symbol "BMRN". BioMarin appreciates the opportunity to comment on the Exposure Draft in which the Financial Accounting Standards Board (the "**FASB**") proposed amendments to Accounting Standards Codification Topic 450-20.

While we understand and support the FASB's continued efforts to provide investors and other users of financial statements with adequate and timely information, we do not believe that the additional disclosures contemplated by the Exposure Draft would help investors or other users of financial statements better assess the likelihood, timing, or magnitude of future cash flows associated with certain contingent losses. While not providing any meaningful benefit to investors, the Exposure Draft would require disclosures that, in our view, would seriously prejudice companies' ability to defend litigation and have the potential to mislead investors or other financial statement users.

We believe the current disclosure requirements provide an adequate and practical framework for disclosing information about companies' loss contingencies and strike an appropriate balance between providing financial statement users with meaningful information to enable them to better assess the nature of the material loss contingencies that are probable or reasonably likely to occur while not causing prejudicial impacts on companies' litigation positions. For these reasons, we strongly encourage the FASB to withdraw the proposed amendments reflected in the Exposure Draft, and maintain the current rules.

This letter addresses our primary concerns related to the Exposure Draft.

Defense of Litigation Would Be Prejudiced

1. As set forth below, the proposed amendments requiring disclosure of accrual amounts would compromise a reporting company's ability to defend itself in litigation and threaten attorney work product and attorney-client privileged communications.

The Exposure Draft would require companies to disclose the amount of accruals for asserted loss contingencies. This is a departure from the current standard, requiring the disclosure of the individual amount accrued only if it is "necessary for the financial statements not to be misleading." The disclosure of the amount of accruals for loss contingencies would severely prejudice a reporting company in litigation, while adding little to an investor's understanding of that company's overall exposure to potential loss. Most notably, the forced disclosure of the accrual amount will greatly disadvantage a company in the negotiated settlement of claims brought against it. The accrual amount will provide current and potential plaintiffs a roadmap to the defendant's estimate of the possible loss in the case, and will undoubtedly become the floor in settlement negotiations. The proposed disclosures may also be perceived by the parties to the litigation as an admission of liability, further weakening the reporting company's settlement posture. As a result, companies may be required to enter into settlements on less favorable terms, to the detriment of the company and its shareholders.

The required disclosure of the amount of accruals for loss contingencies will also prejudice companies in arguing the merits of a case brought against it. For example, a plaintiff could seek to have the disclosure admitted into evidence in an attempt to influence the decision of a judge or jury. The requirement that companies provide a tabular reconciliation of the changes to their accruals for each reporting period further exacerbates the risk of prejudice created by the proposed reporting structure. Changes in the estimated accrual amount necessarily reflect the company's assessment of its exposure in the litigation, providing plaintiffs' attorneys with strategic information which will unfairly prejudice the company in its defense of case.

The proposed disclosure requirements also call into question a reporting company's ability to protect confidential and legally privileged information. The assessment of the loss accrual is generally made in consultation with counsel. Disclosure pursuant to the proposed amendments threatens information which would otherwise be subject to the attorney work product and the attorney-client privilege. Compliance with the disclosure requirements in the Exposure Draft could be interpreted as a waiver of these privileges, allowing a plaintiff to use this information against a reporting company in litigation.

For instance, in making the tabular reconciliation, the reasons for the increase or decrease in the accrual amount during the reporting period are usually based upon complex legal analysis of the changes to the litigation process including discovery and other legal developments. This analysis is normally protected by the work product and attorney-client privilege. The forced disclosure of this information calls the privilege into question.

105 Digital Drive . Novato, CA 94949 . Tel 415.506.6700 . Fax 415.382.7889 . www.BMRN.com

While permitting aggregated disclosures for similar contingencies may lessen some of these concerns for very large companies with multiple pending claims, it gives no relief for companies with few litigation contingencies. For most companies, its accruals and adjustments for each pending matter pursuant to the Exposure Draft would be easily identifiable to plaintiffs' counsel. Forcing the disclosure of such prejudicial information is not in the company's or the shareholders' best interest.

Remote Loss Contingencies

2. As set forth below, we are concerned with the expanded scope of disclosures proposed in the Exposure Draft with respect to remote loss contingencies. We believe that requiring companies to include disclosure for contingencies that management has determined to be remote with respect to probability will harm companies and the disclosure process without providing any meaningful improvement to the quality or transparency of the information provided.

Requiring disclosure of information about remote contingencies that carry the risk of a potentially severe impact on the company will not provide financial statement users with any meaningful information regarding the likelihood, timing or magnitude of future cash flows. Rather such disclosures have the potential to introduce misleading information into a company's financial statements. Investors are accustomed to analyzing material company disclosures that are likely to financially impact the company in a meaningful way. Requiring disclosure about immaterial and remote contingencies does not provide better disclosure, and runs the risk of diluting the disclosures for loss contingencies that are probable or reasonably likely to occur.

Amounts asserted early in litigation are often speculative, without merit and many times reflect a plaintiff's strategy of inflating the amount of potential damages in an attempt to strengthen the plaintiff's bargaining position. Requiring companies to disclose remote loss contingencies resulting from unsubstantiated claims in litigation will result in misleading information being provided in the financial statements. In addition, disclosures about asserted but remote loss contingencies could encourage frivolous lawsuits by plaintiffs who just want to generate settlements from companies by forcing disclosure as a settlement tactic, resulting in increased defense costs for the company.

Current Disclosure Requirements

3. The current disclosure requirements provide an adequate and practical framework for disclosing information about companies' loss contingencies.

The disclosure requirements already in place compel reporting companies to disclose material loss contingencies. The current framework effectively balances the goal of providing financial statement users with meaningful information—enabling them to better assess the nature of the material loss contingencies that are probable or reasonably likely to occur—while avoiding prejudice to reporting companies involved in litigation.

105 Digital Drive . Novato, CA 94949 . Tel 415.506.6700 . Fax 415.382.7889 . www.BMRN.com

The fact that litigation outcomes sometimes take investors by surprise, as noted in the Exposure Draft, is not the result of inadequate disclosures. Rather this is a product of the inherently volatile nature of litigation. The proposed amendments contained in the Exposure Draft would not do away with the uncertainty of litigation outcomes. Instead they are likely to prejudice reporting companies in the defense of litigation and mislead financial statement users. For these reasons, we strongly encourage the FASB to withdraw the proposed amendments reflected in the Exposure Draft, and maintain the current framework.

Conclusion

In summary, while BioMarin strongly supports FASB's continued efforts to provide investors and other users of financial statements with adequate and timely financial information, we do not believe that the additional disclosures contemplated by the Exposure Draft would help investors or other financial statement users better assess the likelihood, timing, or magnitude of future cash flows associated with certain contingent losses. While not providing any meaningful benefit to investors, the Exposure Draft would require disclosures that in our view would seriously prejudice companies' ability to defend litigation and have the potential to mislead investors or other financial statement users.

We believe the current framework for disclosures relating to loss contingencies strikes an appropriate balance between providing financial statement users meaningful information to enable them to better assess the nature of material loss contingencies that are probable or reasonably likely to occur while providing management with the discretion to determine the appropriate qualitative disclosures to protect the company and provide it with the confidentiality necessary to protect the company as it attempts to resolve litigation or other contingencies for the benefit of its shareholders.

For the reasons outlined above, we strongly encourage the FASB withdraw the proposed amendments reflected in the Exposure Draft, and maintain the current rules.

We appreciate the opportunity to comment on the Exposure Draft. Thank you for consideration of our concerns.

Very truly yours,

G. Eric Davis
Sr. Vice President, General Counsel & Secretary
BioMarin Pharmaceutical Inc.

Jeffrey Cooper
Sr. Vice President, Chief Financial Officer
BioMarin Pharmaceutical Inc.

105 Digital Drive . Novato, CA 94949 . Tel 415.506.6700 . Fax 415.382.7889 . www.BMRN.com