TARGET

Mr. Russell G. Golden
Technical Director
Financial Accounting Standards Board
401 Merritt 7
PO Box 51126
Norwalk, CT 06856-5116

Re: *Exposure Draft – Contingencies (topic 450); Disclosure of Certain Loss Contingencies*

Dear Mr. Golden:

We are responding to the FASB's request for comment on the disclosure of loss contingencies exposure draft. We are writing from the perspective of a financial statement preparer, and our objective is to emphasize the most troublesome aspects of the exposure draft from our perspective.

We are a large retailer, with over 1,700 stores, annual revenues in excess of $65 billion, and more than 350,000 employees. As a large company, we deal with litigation in the ordinary course of our business. We also are a public company, with stock listed on the NYSE, and we believe firmly in the value of timely, accurate and meaningful disclosures to investors. We are cognizant, however, that the plaintiffs' bar is among the users of our financial statements. It is this particular constituency that causes us to raise concerns regarding the following three aspects of the exposure draft, which we believe will severely undermine our ability to effectively resolve matters in litigation:

- The proposed requirement to disclose the amount accrued for loss contingencies;
- The proposed tabular reconciliation of period-to-period changes relating to loss contingencies; and
- The proposed disclosure requirement relating to remote contingencies that could have a severe financial impact.

Disclosure of Amounts Accrued

We believe that the requirement to disclose the amounts accrued for loss contingencies will be severely prejudicial. Under the current standard (ASC Section 450.20), disclosure of accrual amounts is only required if necessary for the financial statements not to be misleading. Although the exposure draft would permit companies to aggregate similar types or classes of claims for disclosure purposes, in our experience, even as one of the largest companies in the United States, we periodically have matters outstanding that are not similar to other cases, and we believe in this scenario the proposed standard will require disclosure of the amount accrued at the individual case level. Further, we have also found that we are, on occasion, able to settle matters for less than what we had previously accrued, and firmly believe that if required to disclose the amount accrued, our accrual level will become the "floor" for any future settlement, thus damaging the company and its shareholders. For these reasons, we believe that the current standard for disclosure of the amount accrued should be retained, and such disclosure should only be required if necessary for the financial statements not to be misleading.

Tabular Reconciliation

We also believe the proposed tabular reconciliation of quarterly activity is too detailed, potentially allowing external identification of the entity's assessment of most likely exposure at the individual case level. Like the proposed requirement to disclose the amounts accrued for loss contingencies, this detailed tabular reconciliation will inhibit our ability to renegotiate settlements in pending litigation. Instead, we suggest that this reconciliation be presented on a fully aggregated basis, and limited to two "activity" columns – one showing the aggregate change in estimated liabilities (for new matters and net changes in estimates) and one showing payments.

Disclosure of Remote Contingencies

We appreciate the Board's objective of trying to provide financial statement users with earlier disclosure of potentially severe loss contingencies; however, we believe the proposal goes too far and will lead to disclosure of quite improbable worst-case scenarios that have the potential to mislead investors, obfuscate more important information in the financial statements, and inhibit a company's ability to resolve certain cases.

The exposure draft would result in disclosure of theoretical exposures that investors are ill-equipped to assess without extensive additional information. In such cases we may feel compelled to provide such information to prevent investors from reaching inappropriate conclusions. By providing this extensive incremental disclosure, we would be placing undue emphasis on matters that are not material, thereby diminishing the significance of other material disclosures in our financial statements.

In addition, we believe that increased disclosure of these theoretical exposures could be prejudicial, particularly to brand and reputation-sensitive companies such as ourselves. In our business, it is vital that we remain a brand that our guests trust. By requiring disclosure of remote contingencies, the exposure draft potentially gives the plaintiffs' bar greater leverage in settlement negotiations with respect to cases that may have an ongoing negative impact on a company's reputation, even if they are otherwise without substantial merit.

For these reasons, we believe the best course of action is to remove the proposed requirement to disclose remote contingencies with a potentially severe impact from the final standard. Although the Board stated that its objective is to provide earlier disclosure of these types of contingencies, we believe that the Board has failed to adequately recognize the existing means by which public companies may provide this early disclosure – through the mandatory "Risk Factor," "Legal Proceedings" and "Management's Discussion and Analysis" portions of a company's periodic reports filed with the Securities and Exchange Commission (SEC). Importantly, unlike financial statement disclosures required by GAAP, disclosures of forward-looking information under these SEC mandated requirements are entitled to the safe harbor protection of the Private Securities Litigation Reform Act of 1995. Accordingly, we believe that any discussion of the impact of these remote, forward-looking contingencies should be confined to these areas of a company's disclosure, and that any further requirements to enhance this disclosure be left to the SEC.

If the Board determines to retain a requirement to disclose certain remote contingencies, we strongly urge the Board to be more clear in its guidance as to how companies should distinguish between truly meritless claims, which the exposure draft indicates would not need to be disclosed, and remote claims that would require disclosure. In our experience, the vast majority of our theoretically large exposure litigation is favorably resolved, or the potential exposure is greatly reduced, at the procedural motion stage (such as procuring a motion to dismiss or defeating a plaintiff's motion to certify an action as a class action). At a minimum, we believe the proposal should explicitly give the reporting entity the ability to exclude remote contingencies when there is a reasonable possibility that a procedural motion will greatly diminish the theoretical exposure.

Thank you for your consideration.

Very truly yours,

Robert M. Harrison

Robert M. Harrison
Vice President, Controller