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Letter of Comment No: Y
File Reference: FSP123RBU

Date Received:

September 13, 2005



Mr. Robert H. Fierz.
Chairman, Financial Accounting Standards Board.
401 Mortist 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

Dear Mr. Hora.

We are writing to you with regards to the topic of employee communication requirements of equity grant terms for purposes of establishing a grant date under FAS 123(R) that will be discussed at the September 14. 2005 Board meeting. We understand that the FASB has concluded that companies cannot set the equity grant date at which expensing begins until all terms of the award have been communicated to the employees and therefore, a "neutual understanding" of the key icinis and conditions exist between the employer and employee.

BD has historically calculated the value of an equity grant on the date the Board of Directors authorized the grant. Upon such approval, management subsequently communicates the details of this approved grant generally within the next 5 to 10 business days to each of BD's over 3,000 worldwide employees receiving such awards. We believe that the Board of Director approval date is an appropriate date for determining the fair value of our equity awards for FAS 123(R) expensing purposes for the following reasons:

- Our Board of Directors approves equity awards in terras of dollar values with the number of options and stock units being extendated based on the market price of our stock on the date of grant. Therefore, any change in BD's stock price subsequent to the Board approval date does not change the number of shares that is given to each employee.
- 6 BD becomes legally obligated to issue equity grants, and our employee's rights to such grants attach; as of the date they are so approved.
- We are not aware of any situation whereby the Board of Directors resemded an equity grant after it was approved.
- Our employees are not able to negotiate the size or terms of their equity grants, which is left solely to the discretion of the Beard of Directors.

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- Regardless of when the "mutual" understanding point occurs, the actual exercise price for stock options will still be the stock price as of the Board approval date and that date is used to determine vesting and expiration of awards. We question whether there is ever a "mutual" understanding of the terms as there is nothing that an employee needs to agree to in order to receive the award.
- We communicate the approved awards to employees within a reasonable period of time after the approval date. We refer to the FASB's Q&A guidance for plan amendments under FAS 106. As noted under question 23, plan amendments should be recorded on the date the amendment is adopted, as long as it is communicated to plan participants at that time or "within a reasonable period of time thereafter, that is, within the time period that would ordinarily be required to prepare information about the amendment and disseminate it to employees and retirees". We feel that a similar approach should be applied to employee communications of equity grants.

In any event, we find it difficult to develop a practical solution to this interpretation. We consider a move to a web-based or mass e-mail communication to be very impersonal. Having managers communicate awards to their direct reports is considered a best practice as it provides an important opportunity for discussion of the employee's contributions to the company and the company's future expectations of the employee. In order to attain the accounting efficiency dictated by this interpretation, companies would have to either eliminate this practice in exchange for a mass communication or develop mechanisms by which they can track when each award is communicated. Given the large number of IID employees receiving equity awards, it would be impractical for BD to track and calculate separate values based on individual dates of communication. It also does not make sense that securities with the exact same terms (i.e., exercise price, vesting period, expiration date) would result in different amounts of compensation expense merely because employees were notified at different times generally within a two-week period. Also, the use of an average price over the communication period for determining compensation expense seems arbitrary if the stock price varies over that period and the actual communication does not occur ratably over that period.

In summary, we believe the grant date for FASB 123(R) purposes should be the date the employee begins to benefit from or be adversely affected by the stock price. We do not believe that communication of an award is critical since 1) it is usually after the date the individual is affected by stock price changes, 2) determining when the communication has been made can be difficult, and 3) it does not represent a "mutual" understanding because the communication is "one-way" and is generally only a formality because the individual already has a right to the award and would generally not decline the award. We also do not believe it is necessary to establish a "bright line" test for when communications need to occur. Obviously, the communication should be within a reasonable period of time after the Board approval. We believe good faith communication efforts by companies granting equity awards should be sufficient. We encourage the FASB to issue practical guidance in this matter that would include clarification on the definition of a grant date as the date the employee begins to benefit from or

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is adversely affected by changes in stock price, provided that the communication of the key terms are made within a reasonable period of time, which is determined based on facts and circumstances.

We appreciate your consideration of this matter.

Regards

John R. Considine

Executive Vice President and Chief Financial Officer