Massachusetts Bankers Association

April 1, 2009

Mr. Russell Golden Technical Director Financial Accounting Standards Board 301 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116



Via Email: director@fasb.org

RE: Comments on Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b: Recognition and Presentation of Other-Than-Temporary Impairments

Dear Mr. Golden:

On behalf of our nearly 200 commercial, savings and cooperative banks and federal savings association members located throughout Massachusetts and New England, the Massachusetts Bankers Association (MBA) appreciates the opportunity to comment on the Proposed FSP FAS 115-a, FAS 124-a, and EITF 99-20-b, Recognition and Presentation of Other-Than-Temporary Impairments. We commend the FASB's efforts to improve guidance relating to other-than-temporary-impairment (OTTI).

MBA supports the proposal, since we believe that the threshold to recognize market-related OTTI based on the lack of intent to sell (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 its recovery) is certainly more operational than the current requirement. We also strongly agree with the proposal to recognize only credit losses through

While we support FASB's efforts, we also strongly encourage you to take this opportunity to make additional repairs to the OTTI guidance, which is currently extremely problematic and has been for years. We believe the following recommendations will materially improve transparency, reliability, and clarity.

Key Issues:

- OTTI should be based on credit losses rather than mark to market losses.
 - We agree that probable credit losses represent actual economic losses of a security and should be recorded in earnings. However, market-related losses on debt securities should not be a part of OTTI at all (unless there is the intent to sell or it is more likely than not the company will be required to sell prior to recovery). Debt securities are different from equity securities because of the contractual cash flows and maturities that exist. Discounts within market quotes will, absent further credit losses, necessarily disappear over time.
 - Estimates of fair values in the current market environment are likely to be unreliable, no matter how diligent the effort is for accuracy. Recording estimated market values (and, thus, declines to equity) where bid prices are often significantly different than the ask prices misleads users, who assume reliability in financial statements. With this in mind, market-

related losses should not be recorded in OTTI for available-for-sale securities, unless the intent to sell exists. In practice, AFS securities do not meet the definition of trading and should not have the presumption of intent to sell.

- o Recording market losses as OTTI on held-to-maturity securities contradicts the contention that such investments are held to maturity and will not be subject to any market-related loss. This confuses the reader of the financial statements and adds unnecessarily complicated operational challenges to the preparers. It is also illogical to reduce the book value of a debt security as a loss to OCI, only to accrete the amount over time back to the value of the security. This helps demonstrate that non-credit market losses should not be a part of OTTI if there is no current intent to sell.
- The Proposed FSP should apply to securities with OTTI at the effective date. As currently drafted, the proposal only applies to any new OTTI incurred after January 1, 2009. Instead, we believe it should apply across the board to all securities that are held as of the effective date. This change will result in greater consistency in reporting OTTI by individual companies and across all companies. Without this change, users of the financial statements will be faced with reconciling and analyzing OTTI recorded prior to 2009 (when full mark-to-market impairment was recorded through earnings) with credit losses recorded under the new OTTI guidance (when the mark-to-market impairment is split between earnings and equity). Although total equity will not be affected by this change, Tier One Regulatory Capital will be improved for many banking institutions.

From a technical perspective, this recommended change, is described as a one-time beginning balance cumulative-effect adjustment transfer between retained earnings and accumulated other comprehensive income.

Additional Concerns:

- Recoveries of OTTI should be reversed. OTTI should not be permanent if, in fact, the impairment is not permanent. Recoveries of OTTI should be immediately reversed through earnings in order to more accurately reflect performance of the borrower of the underlying assets and to provide consistency with other impairment accounting.
- The discussion of the meaning of "credit losses" should be expanded. While an SFAS 114 measurement methodology is used as an example in the Proposed FSP, in order to avoid confusion with other references in GAAP to the fair value of "credit risk", an expanded description would be useful. In other words, the amount recorded to earnings should be based on an estimate of the actual credit losses, rather than an extraction of the portion of the fair value affected by a change in the credit risk.
- oTTI Treatment of Equity Securities. Many of our member institutions also maintain equity portfolios. As the markets have declined over recent months, many of the companies these banks invest in have also declined in value. However, most of these firms are strong, viable and have a solid long-term growth prognosis. Because OTTI captures only a "point-in-time," banks must write down the value because of a triggering event even if the stock recovers partially over the next several months, unnecessarily impacting earnings.

We encourage you to consider changes to OTTI so that equity securities are treated in the same way as debt securities, particularly if the institution plans to hold the equities for a longer period of time. In addition, we believe that the rule should be flexible, so that holders of equities can make appropriate decisions about when to sell securities without those decisions impacting the rest of their portfolio.

• Equity securities that hold asset-backed securities should be addressed.

- O Preparers should be able to bifurcate the credit loss portion of OTTI in certain mutual funds investing solely in asset-backed securities (debt securities). Investors should also be able to "look through" to the underlying securities' cash flows for funds that are closed to new investors and have "in-kind" redemption policies in effect.
- Other guidance on evaluating credit losses for common and preferred stocks will be useful.

Thank you for your attention to these matters and for considering our views. If you have any questions or need additional information, please contact me at (617) 523-7595 or via email: <u>iskarin@massbankers.org</u>.

Sincerely.

Director, Federal Regulatory & Legislative Policy