

December 15, 2010

Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

VIA ELECTRONIC MAIL TO: director@fasb.org

Re: File Reference No. 1870-100 - Preliminary Views on Insurance Contracts

Thank you for allowing us the opportunity to comment on the Financial Accounting Standards Board's ("FASB") Discussion Paper ("Discussion Paper"), *Preliminary Views on Insurance Contracts*. As background, Fidelity National Financial, Inc. (NYSE:FNF), is the nation's largest title insurance company through our title insurance underwriters — Fidelity National Title, Chicago Title, Commonwealth Land Title and Alamo Title — that collectively issue more title insurance policies than any other title company in the United States.

We believe that it is important that the FASB staff understand and consider the differences between title insurance contracts and other types of insurance contracts, since we believe these differences present a challenge to adopting the proposed accounting model set forth in the Discussion Paper.

For these reasons, we join in the comments of the American Land Title Association ("ALTA"). The comment letter provided by ALTA includes an accurate description of the title insurance industry, including what makes it unique and its various reporting requirements both on a statutory and GAAP Basis. We reference the comments made in that letter and want to emphasize the significant impact that adoption of a standard that is consistent with the Discussion Paper would have on the GAAP reporting of title insurance entities in the United States. As stated in the ALTA letter, the title insurance industry is vastly different in concept and application than other lines of insurance.

In summary, the key differences are:

- Title insurance does not have a finite contract term; leaving the title insurer unable to determine which and how many of its policies are still in force.
- Title insurance is issued for a one-time premium and there are no renewals.
- Title insurance provides coverage to compensate for past events that exist before the policy is issued but not discovered until after the policy is issued.
- Title insurance underwriting operates almost entirely on the basis of identifying, evaluating and correcting covered matters before the policy is issued, therefore title insurers incur a significant amount of cost related to underwriting prior to or concurrently with the issuance of the policy.

These differences are the primary reason that FASB Statement 60, Accounting and Reporting by Insurance Enterprises and FASB Statement 61, Accounting for Title Plant, which were codified into FASB Accounting Standard Codification ("ASC") 944, Financial Services – Insurance were originally issued. We believe the FASB recognized the fundamental differences in our business and developed standards that more closely aligned the economics of our industry and how it differs from other insurance companies. We believe these differences should be given consideration as the FASB considers changes to current GAAP for insurance entities, specifically relating to the matters described below.

Current GAAP

Under current GAAP, insurance contracts are classified as short-duration or long-duration contracts with title insurance contracts classified as long-duration contracts because they "are expected to remain in force for an extended period". These current GAAP requirements acknowledge the significant differences between title insurance and other types of insurance contracts. The accounting model for title insurance contracts is described below, including excerpts from ASC 944 addressing the rationale.

Premiums from title insurance contracts are generally recognized as revenue on the effective date of the insurance contract because "most of the services associated with the contract have been rendered at that time". A liability for estimated claim costs relating to title insurance contracts, including estimates of costs relating to incurred-but-not reported claims, are accrued when title insurance premiums are recognized as revenue. Estimated claims costs are recognized when premium revenue is recognized because "the insurance provides protection against claims caused by problems with title to real estate arising out of ascertainable insured events that generally exist at that time".

Impact of Discussion Paper

Premium Revenue Recognition

Our interpretation of the discussion paper is that there can be no gain at the inception of a policy (although there could be a loss). The proposed rules would force the gain to be "earned" over the life of

the contract. This is inconsistent with current GAAP for Title Insurance because as noted above the earnings process is culminated and the majority of the costs of providing coverage under a title insurance policy are incurred as of the issuance date. Also, title insurance does not have a finite contract term, therefore we are unable to determine which and how many of our policies are in force at any given time. Thus it would be difficult, if not impossible, to determine what the appropriate period of deferral, if any, would be for its contracts.

Loss Reserves

The discussion paper mentions that it believes that a loss has not been incurred until a defect in a title policy has been discovered. Again, this is inconsistent with current GAAP for Title Insurance, which assumes that the loss exists at the time the policy is issued, which is consistent with the terms of coverage. In fact, nothing can occur after issuance of the policy, which would be covered under the terms of the policy. This interpretation of the incurrence of loss by the Discussion Paper would certainly complicate the calculation of the loss reserve estimate by adding unknown assumptions and making an estimate for these losses even less precise.

Conclusion

As discussed above and as noted in the comment letter from ALTA, there are several significant differences between title insurance contracts and other types of insurance contracts. These differences are contemplated in the current accounting model for title insurance, and we believe these differences should continue to be contemplated by the FASB in any proposed changes to the accounting for insurance contracts. Further, we believe these differences present a challenge to adopting the proposed accounting model set forth in the Discussion Paper.

We believe that the discussion paper, as written, could have a significant impact on the way investors, regulators, ratings agencies and other users of industry financial data view our Company. We also agree with ALTA that a model which recognizes the differences between title insurance and other lines of insurance best serves the interests of these stakeholders by ensuring that financial statements accurately reflect the business models of these vastly different insurance lines. Further, changes could make historical comparisons with past financial statements difficult or impossible preventing stakeholders from appropriately assessing the financial health of title and other insurers.

Sincerely,

Patrick S. Rhodin

Vice President SEC and Financial Reporting

cc: Anthony J. Park

Executive Vice President and Chief Financial Officer