CFA INSTITUTE | Centre for Financial Market Integrity

30 March 2009

Mr. Robert Herz,
Chair, Financial Accounting Standard Board
Financial Accounting Standard Board
401 Merritt 7
P.O Box 5116
Norwalk, CT 06865-5116

Re: Comment Letter on FSP-157-e: Determining Whether a Market is Not Active and a Transaction is Not Distressed

Dear Mr. Herz,

The CFA Institute Centre for Financial Market Integrity (CFA Institute Centre),[1] in consultation with its Corporate Disclosure Policy Council (CDPC)[2], appreciates the opportunity to comment on the Financial Accounting Standards Board's (FASB) Staff Position FAS 157-e, *Determining Whether a Market is Not Active and a Transaction is Not Distressed*. This comment letter is one of the two letters we are issuing in response to the package of financial instrument accounting amendments proposed by the FASB as part of its response to the credit crisis. The other letter focuses on FASB Staff Position FAS 115-a, FAS 124-a and EITF-99-20-b, *Recognition and Presentation of Other than Temporary Impairments.*

The CFA Institute Centre represents the views of its members, including portfolio managers, investment analysts, and advisors, worldwide. Central tenets of the CFA Institute Centre mission are to promote fair and transparent global capital markets, and to advocate for investor protection. An integral part of our efforts toward meeting those goals is ensuring that the quality of corporate financial reporting and disclosures provided to investors and other end users is of high quality. The CFA Institute Centre also develops, promulgates, and maintains guidelines encouraging the highest ethical standards for the global investment community through standards such as the *CFA Institute Code of Ethics and Standards of Professional Conduct.*

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[1] The CFA Institute Centre for Financial Market Integrity is part of CFA Institute. With offices in Charlottesville, VA, New York, Hong Kong, Brussels and London, CFA Institute is a global, not-for-profit professional association of more than 94,000 investment analysts, portfolio managers, investment advisors, and other investment professionals in 131 countries, of whom nearly 83,000 hold the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 136 member societies in 57 countries and territories.

[2] The objective of the CDPC is to foster the integrity of financial markets through its efforts to address issues affecting the quality of financial reporting and disclosure worldwide. The Council is comprised of investment professionals with extensive expertise and experience in the global capital markets, some of whom are also CFA Institute member volunteers. In this capacity, the Council provides the practitioners' perspective in the promotion of high-quality financial reporting and disclosures that meet the needs of investors.

EXECUTIVE SUMMARY

To meet the objective of a fair value measurement, under current requirements discussed in FASB Statement No. 157, “Fair Value Measurements” (FAS 157), an entity measures the fair value of financial instruments by considering all relevant market information that is available. When measuring fair value using a valuation technique (commonly referred to as ‘mark-to-model’), an entity maximizes the use of relevant observable inputs and minimizes the use of unobservable inputs. Market inputs should reflect "orderly transactions" rather than forced or disorderly transactions.

The recent illiquidity in some financial markets has highlighted the need for more guidance about the factors to be considered in identifying an inactive market and a distressed or forced transaction. We agree that additional guidance might improve the understanding and application of principles in FAS 157. FASB has proposed FSP 157-e, outlining a two step approach, including the evaluation of seven indicators, to determine whether a distressed or forced transaction exists. We believe the FSP would significantly alter the exit price principle of Statement No. 157 by enabling financial statement preparers to exclude relevant market quotes and trades when determining fair value. There will be a shift from the relatively objective exit price principle towards more subjective and easier to manipulate valuation approaches based on management judgment.

Moreover, we understand that this proposal is motivated, in part, by the complaints of preparers who assert that there is disagreement between preparers and auditors about how to apply the FASB’s current guidance on the application of fair value measurements in inactive markets. If that is so, we recommend that the FASB work with the SEC staff to clarify such guidance and not change the principles of recognition and measurement for fair value, which would undermine the integrity of information reported to investors.

More specifically, in our response to FSP FAS 157-e we:

- Express our objections to the FASB flouting its own due process rules and requiring hasty and significant amendments that alter the presumption of observable market inputs being the primary source of reference when determining fair value.
- Express concerns about the politicization of accounting standard setting and erosion of the credibility of the FASB, if these proposals were adopted. We reiterate the need for independent and accountable standard setting.
- Propose that, authorities focus on regulatory capital management to resolve the current pressures on financial institutions rather than subjecting the FASB to political pressures that force it to depart from its mission. Raise concerns about whether the FSP’s proposals are operational. We agree with the assertion expressed in the IASB’s Expert Advisory Panel

report (EAP Report) on "Measuring and disclosing the fair value of financial instruments in markets that are no longer active". That is, "There is no bright line between active markets and inactive markets." Similarly, this was the approach articulated in FSP 157-3 and in our comment letter for that Staff Position we noted that as a general principle we strongly believe that the threshold for defining a distressed transaction should be extremely high and that the emphasis should be on the specific transaction rather than the general market environment.

- Are concerned the FSP is so flexible as to effectively allow firms to apply their custom Level III valuation to any and all assets for which they do <u>not</u> want to use market inputs. This is an almost certain invitation to having toxic and other problem assets being reflected at a value much higher than actual market value. It results in decreased transparency and reduced confidence in the balance sheet of these firms.

- Provide our perspective, primarily in agreement with the certain findings of the International Accounting Standards Board's (IASB) Expert Advisory Panel (EAP) and the approach articulated in FSP 157-3 about the most meaningful approach to determining a distressed transaction in order to evaluate whether market inputs can be ignored.

- Highlight various likely adverse consequences of retreating from fair value measurements based on relevant market inputs in a less liquid market. These include increased earnings management opportunities, impaired credibility of financial reports, restricted access of banks to private capital and therefore heightened systemic risk.

- Propose a set of disclosures that would mitigate the damage to investors if these proposals be adopted.

We believe that the FSP represents a move away from key fair value principles. The net result of a disorderly retreat from the application of the objective and transparent principles of fair value accounting is that the capital markets will remain closed to major banks and other financial intermediaries for an extended period of time and a higher cost of capital imposed. Investors will not be willing to commit capital to firms that hide the economic value of their assets and liabilities. Reduced capital access will restrict the ability of banks to diversify their funding sources and slow the recovery process.

DUE PROCESS AND PROPOSED RESPONSE STRATEGY

Due Process

The political pressure that led the FASB to put forward the proposals contained in FSP 157-e and FSP-115 is visible to all constituencies. The CFA Institute understands that pressure and hopes that the FASB can stand up to that pressure and carry out its mission as an independent standard setting organization that aims to promote high quality accounting standards.

We strongly oppose the Board's response to the pressures to provide additional guidance on whether a market for a financial asset is not active and a transaction is not distressed for fair value measurements under FASB Statement No. 157-e, *Fair Value Measurements*. If the proposals are adopted on the accelerated timetable and with the limited due process anticipated, we believe the FASB will compromise its standing as an independent standard setter. We also believe these decisions will have adverse contagion effects as they are likely to be adopted by the IASB under the guise of "convergence". It will fuel the race to the bottom that will be antithetical to the FASB's stated precepts that underlie the fulfilment of its mission. Continuing on the path of politicised standard setting that caters for special interests, coupled with the dangerous precedent of ignoring recommendations of the various expert working groups such as the SEC 'study of mark to market accounting' report[3] and the IASB Expert Advisory Panel clarification guidance, the Board would find it extremely difficult to maintain its credibility as an independent standard setter. The Board will find itself complicit in engaging in trial and error policy interventions that fail to balance stakeholder interests or to benefit from expert opinion. This hastily developed FSP cannot be characterised as best practice guidance.

Also troubling is that no basis for conclusions is provided to assist stakeholders in their evaluation of the alternatives considered by the Board and the reasons for selecting one approach while rejecting others. For example, the FSP frames the 2nd step as a presumption of a distressed market that must be overcome. What were the reasons for determining that that construct improved the determination of fair value?

We are aware that affected parties often rally political intervention as a means to undermine the deliberative due process of accounting standards setting. That is the context of accounting standards setting. However, investors have been harmed in the past when the FASB has acceded to such pressure. We urge the Board to not to accede to these political pressures again.

Finally, in light of the substantive complexity of the amendments to well-established and critical accounting literature, the 15-day comment period and 1-day comment analysis severely constrains the ability of constituents to develop comprehensive responses to the proposal, fails to ensure that affected constituents are aware of the proposal, raises uncertainties as to the depth of analysis or understanding of any constituent input received, and calls into question the quality of implementation that will occur.

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[3] SEC mark to market study: Recommendation #3 ' Fair value should be improved through development of application and best practices guidance for determining fair value in illiquid or inactive markets'

Proposed Alternative Response Strategy

As an alternative, we propose that the FASB continue to improve financial instrument accounting through a comprehensive project that addresses recognition and measurement. Concurrently given the political pressures, the FASB should, with urgency, align with all its stakeholders in undertaking an aggressive education[4] outreach to Congress, the media and regulatory authorities. Overall, it is important that the essential findings of the SEC study supporting fair value accounting are not ignored. The interests of investors in greater transparency of financial reporting information should not be sacrificed because of an inadequate understanding or indifference by legislators about how fair value works and why Statement No. 157 is a high-quality, well-deliberated and conceptually sound accounting standard.

As both the FASB and the IASB have made clear, assertions of the pro-cyclical ramifications of fair value arise due to the linkage with regulatory capital and it is at the regulatory capital level that any necessary forbearance ought to arise. It is important to elevate the focus on regulatory capital as a solution to systemic risk while clearly emphasizing the different objectives of regulatory capital in achieving safety and soundness and of financial reporting in ensuring adequate transparency in the capital markets. The regulatory capital effect of fair value accounting is an issue unique to certain financial institutions applying fair value accounting. The proposed change reduces the relevance of fair value measurements for all entities applying FAS 157.

Stability versus transparency: Goal Congruence

In order to diversify their funding sources and risk, financial institutions must have access to private capital. Financial reporting information is aimed primarily for providers of external capital such as investors and this goal imposes a fiduciary duty on the accounting standard setters to promote accounting information that can safeguard the interests of long term investors who bear the residual risk as well as other capital providers.

In addition to equity investors, other providers of debt capital such as depositors also face significant exposures if financial institutions fail. It is also in the interest of those who act on behalf of depositors, such as regulators, to have viable, profitable and solvent banks. It is in the

[4] A thematic analysis of the issues shows an inconsistent understanding by policy makers to the following key questions

- What is the best source of financial information on an economic value basis--is it best derived from market or management judgements? Is illiquidity of financial assets irrelevant when assessing economic values?
- Do time varying definitions of economic value contribute to systemic risk?
- Is updated information on the value of financial assets harmful or beneficial to depositors and investors? Does censorship of information provide sustainable stability as opposed to illusory stability?
- Can the linkage between fair value disclosure and asset-liability management decisions be disentangled?

In pondering these questions, the regulators and policy makers should seek the answer to **what accounting regime best meets the interest of counterparties, investors and depositors of financial institutions. The inevitable answer is fair value accounting.** Whereas the SEC made some headway in understanding this, both legislative houses require an outreach with these set of facts.

interest of all these stakeholders to have an early warning system and have the capacity to differentiate bad and good banks. Fair value accounting, combined with disclosures, provides critically relevant information to all stakeholders.

Stability versus transparency: Goal Conflict

However, regulatory objectives are in some instances inherently incompatible with transparency objectives. This is because the raison d' etre of regulators is to ensure the stability and solvency of financial institutions and to mitigate systemic risk; this introduces a conservative bias and consequently an aversion to reflecting economic reality in firm performance because it may result in market or firm volatility. On the other hand, equity and other dis-intermediated capital providers allocate capital to financial institutions based on maximising their risk adjusted returns and this often necessitates their neutrality towards the volatility of firm performance.

The major problem is that bank regulators use general purpose financial statements to make assessments about a bank's financial strength and capital adequacy. In addition, the ability of US banks to rely on a lender of last resort for liquidity and capital needs has weakened the rigor of managing and overseeing the capital adequacy of the industry. Insurance company and public utility regulators have, for many decades, prescribed the accounting methods used to evaluate solvency and set rates respectively. It is noteworthy that insurance company regulators focus on protecting policyholders while bank regulators seem unconcerned with protecting depositors who are protected by the FDIC. If bank regulators are concerned about pro-cyclicality (which is an economic phenomenon, independent of accounting) they need to set capital standards accordingly. Suppressing the use of fair value for recognition and measurement of financial assets does not reduce the risks of procyclicality; in fact, it may only serve to exacerbate those risks while making it more difficult for investors to make intelligent, well-informed decisions.[5]

Regardless of the tension and in some cases conflict in underlying objectives between regulators' and investors' needs, the ability to distinguish low risk from high risk banks is essential for both regulators and money managers to function effectively and to fulfil their core purpose. **Regulators and policy makers should seek the answer to what accounting regime best meets the interest of counterparties, investors and depositors of financial institutions. The inevitable answer is fair value accounting.**

[5] Fair value accounting facilitates self correction. However, not often mentioned in the debate are the economic pro-cyclical effects of delayed or less frequent write-downs under an amortized historical cost approach. The delayed recognition of losses reduces the incentives of managers to engage in economic risk management and restructuring during economic climate downturns. Relative to fair value accounting, an amortized cost approach can result in morally hazardous risk origination during a buoyant and booming economic period because financial institutions are aware that they may have relatively more flexibility to defer their losses if a downturn occurs. The combination of morally hazardous risk origination during booming economic environments and relative inertia during market downturns has pro-cyclical economic consequences. We refer to the lost decade in Japan as a suitable reference point.

OPERATIONAL CONSTRAINTS OF THE AMENDMENTS

FASB Statement No. 157 was issued in September 2006, after substantial due process, and both Boards (IASB and FASB) have been contemplating a new approach to financial instrument accounting. It is disruptive to all constituencies to have a radical mid-point change of rules during the crisis. These changes would cast uncertainty about the overall direction of financial instrument accounting and make it much more difficult to ultimately adopt fair value as the measurement basis for all financial instruments. As we have severally stated, the application of fair value accounting for financial instruments will significantly improve financial reporting. A shift from an approach that uses the objective exit price principle towards one that would permit more subjective and easier to manipulate valuations based on management's judgment would constrain the incentive for financial institutions to correct sub-optimal economic decisions.

As highlighted in the SEC study recommendation #3, there are notable implementation constraints in applying the FAS 157 guidance as it stands, particularly the challenge of identifying distressed transactions. To address these, the formation of the FASB's Valuation Research Group (VRG) and the IASB's Expert Advisory Panel (EAP) was a step in the right direction towards deriving answers that would satisfy the needs of all stakeholders. This FSP seems to short circuit these progressive efforts.

We agree with the assertion expressed in the IASB's Expert Advisory Panel report (EAP Report) on "Measuring and disclosing the fair value of financial instruments in markets that are no longer active". That is, "There is no bright line between active markets and inactive markets." Similarly, this was the approach articulated in FSP 157-3 and in our comment letter for that Staff Position we noted that as a general principle we strongly believe that the threshold for defining a distressed transaction should be extremely high and that the emphasis should be on the specific transaction rather than the general market environment.

We agree that the factors identified in paragraph 11 of the proposed FSP *may* be indicative of an inactive market, but we believe it is unsound to presume that a quoted price is associated with a distressed transaction simply because the market for an asset or class of assets is inactive. It simply means that "an entity needs to put more work into the valuation process to gain assurance that the transaction price provides evidence of fair value or to determine the adjustments to transaction prices that are necessary to measure the fair value of the instrument," per paragraph 17 of the EAP Report. The issue to be addressed, therefore, is not about defining whether a market is active, but whether a transaction price is distressed and not representative of fair value.

The proposal is a rule that requires certain, often relevant inputs, be excluded from fair value measurement. If the objective is to move away from marking to distressed quotes and transactions, the proposed rule forcing entities to assume that, absent evidence to the contrary, every quote and transaction in an inactive market is distressed, would only move the fair value measurements away from "exit price." Instead of the price that *would be* received to sell an asset in an orderly transaction in the *current market*, the rule moves the fair value measurement to a price management believes it "*should*" receive based on a *normal market*, effectively allowing a management to take a "longer view" of the market.

If the main intent of FSP-157-e, from an application standpoint, is to ease the implementation difficulties of fair value measurements in inactive markets, it falls short in that respect. If the objective is to ease the identification of distressed transactions, the decision to shift from relatively objective criteria based on exit price to more subjective criteria based on subjective, entity specific judgments, is unlikely to meet that objective and will introduce other forms of implementation complexity. The proposal increases the risk of measurement error and the interpretation burden that investors face. Overall, it reduces the quality of financial reporting information.

There are various points worth highlighting in relation to the proposed factors in step 1.

- It is not clear what weighting should be assigned to each of these factors. We do not view the factors as having equal weights in all circumstances. We also believe that these factors are too broad. Terms such as "abnormal", "significant increases", etc. may be interpreted as either: (1) abnormal conditions in the current market based on current market participants' credit and liquidity assumptions or (2) abnormal conditions when compared to a market at the peak of the mortgage and real estate bubble. We believe there is a significant risk that the guidance in Step 1 may have adverse effects on the comparability of financial statements. If the FSP is issued with Step 1, as written, we request granular disclosure of the amounts in each asset class (e.g. non-agency sub-prime MBS, prime credit card ABS) where the entity concluded the market is "inactive" based on criteria in Step 1.

- It is ambiguous as to which of these factors on a standalone or on a combination basis, are either necessary or sufficient when attempting to identify inactive markets.

- Markets for illiquid assets are by definition opaque. While Step 2 is currently framed as a rebuttable presumption that the transaction is distressed, we question—either to rebut the presumption or to reach the conclusion—how preparers and auditors can be expected to determine whether transactions were "distressed" without knowing the motivations of the sellers (including any alternative courses of actions (e.g. selling other assets)?

- There may be unintended consequences of the proposal. If mutual funds and other pools of capital use valuations that do not fully reflect market values, then new investors and those who redeem are advantaged and disadvantaged respectively relative to continuing investors. If registered and unregistered investment companies are forced to mark positions away from the price they expect to receive in the *current* market to a price reflective of assumptions based on a more *orderly* transaction, the NAV at which investors redeem will be higher than the price the funds would realize from sales of the underlying investments. Redemptions at an inflated NAV would disadvantage investors remaining in the fund. We are concerned that the short comment period of this FSP will not be sufficient to reveal potential risks to these entities and their investors.

- We believe that the proposed FSP overlooks the extent of reliance on broker quotes and pricing services for fair value and that most preparers that are not large financial services entities do not have the information or expertise to model values for all positions or obtain inputs for these models. This is especially true for registered and unregistered investment companies, endowments, foundations, pension plans, etc., that will not have the capability of determining entity specific values and whose business model or regulatory requirements require the provision of fair values, often daily, as a fiduciary duty to its investors.

The outline of the factors in paragraph 11 is a tacit acknowledgement that determining a distressed transaction is a complex but necessary aspect of determining fair value based on exit price. However, instead of developing and providing further guidance on how to apply these factors, paragraph 12 rather surprisingly, simply and entirely passes the buck to management to make judgements as the solution.

PROPOSED APPROACH TO DEFINING A DISTRESSED TRANSACTION

The determination of whether a transaction price is distressed can only be performed in the context of the specific facts and circumstances of a transaction and cannot be generalized for an entire market. For example, a financial institution with ample financial flexibility may choose to sell an asset that has declined in value by more than 50% because it believes the value of the asset may further decline. The institution markets the sale of the asset for a sufficient period of time before the measurement date and yet, there is only one bidder for the asset. Such sale is not forced or distressed.

We recommend that the FASB consider the guidance in the EAP Report for purposes of defining a distressed or forced sale. That is, “Indicators of a forced transaction” might include, for example:

1. a legal requirement to transact, for example a regulatory mandate.

2. a necessity to dispose of an asset immediately and there is insufficient time to market the asset to be sold.

3. the existence of a single potential buyer as a result of the legal or time restrictions imposed.

We strongly agree with the FASB's previous statement in FSP FAS 157-3 that it is inappropriate to assume that every transaction in an inactive market is distressed.

Another important point is that if an entity measures fair value using a valuation technique because it believes observable market inputs require significant adjustment or are representative of distressed sales (as defined above), that technique should reflect current market conditions, not the hypothetical conditions discussed in paragraph 15 of the draft FSP. The guidance in paragraph 15 indicates that the inputs should reflect an orderly transaction between market participants at the measurement date, including a reasonable risk premium for bearing uncertainty that would be considered by willing buyers and willing sellers in pricing the asset in a non distressed transaction at the measurement date. We believe the outcome of the guidance in paragraph 15 would create values that would not adequately consider the credit and liquidity risks present in the current market. A value measured using an approach that does not take into account all factors that market participants would consider in pricing the instrument does not represent an estimate of a current transaction price on the measurement date and would lack credibility with investors.

LIKELY CONSEQUENCES OF THE AMENDMENTS

The net effect of the two step heuristic and seven factors provided is simply to provide leeway to preparers to use measurements that make their financial condition appear more favourable. The proposed approach also increases the likelihood that preparers will engage in asymmetrical accounting during periods of high economic growth and market exuberance versus periods of economic difficulties. This increases the likelihood of misrepresenting the economic reality of the held financial instruments.

By shifting the presumption of identifying distressed transactions, this FSP is fundamentally altering a key axiom of FAS 157 that allots a primacy to observable market based inputs. Such a significant paradigm shift without adequate due process is highly undesirable and contentious. The fundamental challenge has involved the difficulties in dealing with items that are migrating from level 2 to level 3. The approach adopted would significantly affect level 2 items with observable market inputs because managers would now have the flexibility to ignore these market inputs, given the current language. In trying to remedy the mis-classification of level 3 items as level 2, the FSP increases the likelihood of level 2 items being mis-classified as level 3.

We strongly believe that this FSP will move "mark to market" accounting toward a "mark to management model," taking a *subjective view of economic worth* rather than presenting an *objective, consensus* view of the economic worth. A subjective judgment of value is more susceptible to earnings manipulation that misrepresents economic reality. One complaint directed against FAS 157 is that auditors have forced preparers to adopt a more rigid application of the guidance than some view the language as requiring. We are concerned that the FSP shifts the pendulum too far in the other direction. While providing preparers with some temporary relief, the FSP increases the likelihood of surprise losses hitting earnings in the future.

The proposed approach to identifying inactive markets and distressed transactions, would severely amplify the difficulties that investors are likely to face in comparing performance across reporting entities and through reporting periods. One likely effect will be a shift of assets from level 2 to level 3. The analytical difficulties will be exacerbated by the inadequate level of required disclosure for the level 3 category that is largely based on subjective, entity specific judgments and is more prone to measurement error. This will increase the risk of adverse selection of securities and sub-optimal capital allocation by investors. This, in the long run, might reduce the competitiveness of US capital markets.

Equally noteworthy is the failure to ensure the provision of sufficient alternative disclosure regarding level 3 items. Among such disclosures are exit price, sensitivity analysis of key assumptions, and disclosure of valuation inputs and models.

ADDITIONAL DISCLOSURES

If the Board adopts the FSP, we believe that it can limit the consequent damage by adopting disclosures that enable investors to understand the consequences of the change. We note that while FAS 157 requires discussion of changes to valuation techniques, these disclosures have been very limited in 2008 year-end financial statements. Disclosures that are present are often the ones that the FASB required and illustrated in a tabular format in the Standard. As a result, we request that in the event the current FSP is adopted, entities be required to present the following disclosures:

- a detailed reconciliation (by asset class) of the valuation under the previous and the current method in the period of adoption or subsequent change in valuation technique as well as the effect of the change on earnings (or similar measure) and equity.
- Quotes and prices received (min/mid/max) by asset class. If the entity concludes quotes are distressed, a table that compares the quotes to the average price the position is marked to as a result of the application of an alternative valuation technique as required under paragraph 15 of the FSP.
- Sensitivity analysis (as required for valuation with unobservable inputs by IFRS 7) for all valuations where an entity concluded the price or quote is distressed.
- Specific inputs used in the internal models and the source of these inputs.
- Tables summarizing any entity transactions (buys and sells) by asset class compared with the last mark to market price.

We request that the above disclosure requirements not have practicability exceptions and be mandatory. We also request tabular format for the above disclosures.

We would concur with the additional disclosures proposed by Disclosure Insight, in their comment letter on the FSP, dated 25 March 2009. These are:

1. Promulgation of practices and disclosure protocols similar to those used in accounting for pensions. This could be appended onto the existing Level 1-3 asset classification/valuation protocols already in existence. They could then be further enhanced by requiring disclosure of the following:

    a. Disclosure of original book value of those assets identified as lacking active markets.

    b. An immediate liquidity value of the assets if they had to be sold within 30-90 days, allowing some may [supposedly] have no real market at present.

    c. Present value of those assets deemed to lack active markets and the assumptions used to arrive there such as:
        i. Discount rates used to value the assets
        ii. Interest rate assumptions used to value the assets
        iii. Rate-of-return assumptions used to value the assets
        iv. Cash flow forecasts regarding the assets
        v. Time horizons used and rationale for the same
        vi. Basis on which management determined there is no active market

2. Classification and segregation of assets [supposedly] lacking active markets into separate categories/pools such that users of financial statements can easily discern:
    a. What the asset pools are and what qualifies for inclusion in the same.
    b. For each asset pool, public companies should provide quantification of those assets lacking an active market as well as the size of the total pool to which those assets would otherwise belong.
    c. The assumptions used to value those assets at present; that is, how does management know they lack an inactive market and how did they arrive at the values they did.
    d. Identification of clear "triggering" events that would cause a change to how assets in each pool are valued in the future.
    e. Changes since the last reporting period. This should be done at least quarterly with clear and separate disclosures for amounts added to and amounts deleted from each pool during each reporting period (no net numbers).
    f. Identification of reasons for those additions and/or deletions that took place each reporting period. This should include a clearly identified process for "rehabilitating" assets for which markets again become [supposedly] active.
    g. Identification and quantification of those assets that moved between pools.

CLOSING REMARKS

In conclusion, we believe that both hastily developed FSP proposals are primarily a result of political pressures and are not a faithful reflection of the outcome of other consultative processes related to the credit crisis such as the Financial Crisis Advisory Group (FCAG). Under these very difficult and testing circumstances, **CFA Institute would advise the FASB to act with the sound professional judgment that is required of an *independent*, competent and accountable standard setter. It is only on this basis that the FASB will safeguard its legitimacy, relevance and credibility in the eyes of investors.**

If you, other board members or your staff have questions or seek further elaboration of our views, please contact either Vincent T. Papa, CFA, by phone at +44.207.531.0763, or by e-mail at vincent.papa@cfainstitute.org, or Patrick Finnegan, CFA, by phone at +1.212.754.8350, or by e-mail at patrick.finnegan@cfainstitute.org.

Sincerely,

/s/Kurt N. Schacht

Kurt N. Schacht, CFA
Managing Director

/s/ Gerald I. White

Gerald I. White, CFA
Chair, Corporate Disclosure Policy Council

cc: Corporate Disclosure Policy Council

Hon. Harry Reid, Majority Leader
U.S. Senate

Hon. Nancy Pelosi, Speaker
U.S. House of Representatives

Hon. Christopher Dodd, Chairman
U.S. Senate Committee on Banking, Housing and Urban Affairs

Hon. Barney Frank, Chairman
U.S. House Committee on Financial Services

Hon. Timothy Geithner, Secretary
U.S. Department of the Treasury

Ms. Kathleen L. Casey, Commissioner
U.S. Securities and Exchange Commission

Hon. Mary Schapiro, Chairwoman
U.S. Securities and Exchange Commission

Mr. Luis A. Aguilar, Commissioner
U.S. Securities and Exchange Commission

Ms. Elisse B. Walter, Commissioner
U.S. Securities and Exchange Commission

Mr. Troy A. Paredes, Commissioner
U.S. Securities and Exchange Commission

Mr. James Kroeker, Acting Chief Accountant
U.S. Securities and Exchange Commission

Michael Dunn, Acting Chairman
Commodities Futures Trading Commission