FASB to Reconsider Plan for Sweeping Changes to Contingent Liabilities Disclosures

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On September 24, 2008, the Financial Accounting Standards Board ("FASB") decided to reconsider its previously-proposed amendments to FASB Statement No. 5, *Accounting for Contingencies* ("Statement 5"), and FASB Statement No. 141, *Business Combinations*. The original proposal would have substantially changed disclosure obligations related to contingent liabilities, such as pending or threatened litigation, in periodic reports for fiscal years ending after December 15, 2008.

Largely due to the substantial number of comments received in response to the proposed changes, FASB announced that it will develop an alternative proposal for changes to Statement 5 that will take into account some of the concerns raised in the comment letters. The FASB staff intends to conduct field testing of this alternative approach in November and December 2008 and hold public roundtable discussions in the first quarter of 2009. Formal FASB deliberations are expected to begin in late March or April 2009. If adopted, the proposed statement would be effective no sooner than for fiscal years ending after December 15, 2009.

Under the previously-proposed changes, companies would have been required to provide, in their financial statement footnotes, detailed quantitative and qualitative disclosures about contingent liabilities such as litigation and threats of litigation, including:

- the company's best estimate as to its maximum exposure with respect to the contingency;
- a description of the contingency, how it arose, and its legal or contractual basis;
- current status;
- anticipated timing of resolution;
- a description of the factors that are likely to affect the ultimate outcome of the contingency and their potential effect on the outcome;
- the company's qualitative assessment of the most likely outcome of the contingency;
- the significant assumptions made in estimating the quantitative disclosures and in assessing the most likely outcome;
- detailed information regarding insurance coverage and indemnification obligations; and
- tabular reconciliations of loss contingencies at the beginning and end of the period covered by the income statement.

In addition, the previous proposal would have required detailed disclosure even where the loss contingency was remote.

It is too early to determine which of these disclosure items are likely to be retained, rejected or modified. We will continue to keep you updated as FASB is closer to implementing an amendment in final form.

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