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Mintz Levin Cohn Ferris Glovsky and Popeo PC

# Financial Crisis Alert: Study on Mark-to-Market Accounting

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Section 133 of the Emergency Economic Stabilization Act of 2008 ("EESA") requires the SEC to conduct a study of "mark-to-market" accounting by January 2, 2009.[1] Mark-to-market accounting, also known as "fair value accounting," means that firms should value their assets based on their current market prices. Mark-to-market was originally advocated as a more accurate valuation methodology than valuing assets at their "historic cost" (*i.e.*, the price originally paid for them). Problems arise, however, when market prices of assets cannot easily be measured.

In September 2006, the Financial Accounting Standards Board (FASB) issued Statement No. 157, which is effective for financial assets and liabilities for financial statements issued for fiscal years beginning after November 15, 2007.[2] Statement No. 157 made it harder to determine the fair value of financial assets when the market for the particular assets is not active. Now, in light of the current financial crisis and declining asset values, mark-to-market accounting is causing problems for companies, especially financial institutions, that must account for decreased asset values.[3]

The newly mandated study on the Statement No. 157 accounting standards must be done in consultation with the Secretary of Treasury and the Board of Governors of the Federal Reserve System.[4] At a minimum, the study must consider:

- the effects of mark-to-market accounting standards on a financial institution's balance sheet;
- the impacts of such accounting on bank failures in 2008;
- the impact of mark-to-market accounting on the quality of financial information available to investors;
- the process used by FASB in developing accounting standards;
- the advisability and feasibility of modifications to such standards; and
- alternative accounting standards to Statement No. 157.

On October 7, 2008, the SEC announced that James Kroeker, Deputy Chief Accountant for Accounting at the SEC, will serve as staff director for the study. The SEC also announced that it is scheduling public roundtables to obtain input into the study from investors, accountants, standard setters, business leaders, and other interested parties.[5]

Mintz Levin will continue to monitor the SEC's study of mark-to-market accounting closely. For the latest developments, visit Financial Crisis Central at Mintz.com.

**Endnotes**

1 Emergency Economic Stabilization Act of 2008, Division A, Title I, Troubled Assets Relief Program, § 133; Securities and Exchange Commission Release Nos. 33-8975, 34-58747, File No. 4-573; SEC Press Release, No. 2008-242 (Oct. 7, 2008).

2 ***See*** FASB Staff Position, FAS 157-3, "Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active" (Oct. 10, 2008).

3 ***See*** FASB Summary of Statement No. 157; FASB Staff Position, FAS 157-3, "Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active" (Oct. 10, 2008).

4 Emergency Economic Stabilization Act of 2008, Division A, Title I, Troubled Assets Relief Program, § 13; Securities and Exchange Commission, Release Nos. 33-8975, 34-58747; File No. 4-573; SEC Press Release, No. 2008-242 (Oct. 7, 2008).

5 SEC Press Release, No. 2008-242 (Oct. 7, 2008).

*For assistance in this area, please contact one of the attorneys listed below or any member of your Mintz Levin client service team.*

**Steve Ganis**
**(617) 348-1672**
SGanis@mintz.com

**Mo Cowan**
**(617) 348-3003**
WMCowan@mintz.com

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