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September 23, 2008

Mr. Christopher Cox
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Dear Chairman Cox:

The problems that exist in today's financial markets can be traced to many different factors. One key factor that is recognized as having exacerbated these problems is fair value accounting. Today, as we are united in seeking solutions, I am writing to offer some solutions that we believe can have a strongly positive effect and which are within the authority of the Securities and Exchange Commission (SEC).

As we indicated in our letters to the Financial Accounting Standards Board (FASB)[1], the federal banking agencies[2], and the SEC[3], we believe that Statement of Financial Accounting Standards No. 157 (SFAS 157) and certain other related accounting literature are flawed because they do not provide a framework to guide preparers of financial statements and auditors in applying their fundamental concepts when markets become illiquid. As financial markets thin out or even seize up, as trades become fewer and more volatile, and in general as trading values become increasingly unreliable, it is daily more apparent that for many assets, especially under current conditions, there is not a true "fair value". Although SFAS 157 defines fair value, it does not adequately describe how to estimate fair value in an environment with far fewer than normal buyers and only distressed (or liquidating) sellers. Typical sellers are not selling and typical buyers are not buying in meaningful volumes. Many holders of assets are restrained from selling, because they know the economic values of their assets are greater than the distressed sale values they are seeing in the marketplace. Both buyers *and* sellers are "market participants",[4] yet they are not participating, and there are either no trades or insufficient trades in order to estimate fair value under SFAS 157 and other literature.

We are also concerned about additional accounting projects in the pipeline that, if finalized, could ignite new disruptions in the market place. Not only are some of these projects highly controversial with respect to whether or not they improve the

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[1] See ABA letter to the FASB dated May 12, 2008.
[2] See ABA letter to the four federal banking agencies dated August 7, 2008.
[3] See ABA letter to the SEC dated September 11, 2008.
[4] This phrase, which is included in some of the accounting literature, is being interpreted by audit firms as meaning only the buy side without regard to the sell side.

accounting literature, but they could hardly come at a worse time, becoming new sources of insecurity and instability in financial markets that are in more need of calm.

Our descriptions of the problems and our suggested solutions are described below.

Fair Value Definition

The problem: The fair value accounting rules are problematic in the current market, are not providing useful information to shareholders or regulators, and are having a strong pro-cyclical impact in the marketplace.

Our suggested solution:[5] We would recommend that, given current market turmoil, the SEC provide immediate guidance that intrinsic value or economic value[6] are appropriate proxies for fair value. The current accounting standards never anticipated the wide variance and price disconnects that we are experiencing today, and there needs to be a more appropriate and accurate measure that approximates true fair value. The current rules do not provide guidance in conditions such as those prevailing in today's market place. The rules require that "exit price" and "market participants" be used for determining fair value, yet too few parties—other than those in distressed circumstances—are participating in markets in the current environment. Many holders of assets, where the economic values of the assets are greater than the deep discounts that distressed sales would bring, remain on the sidelines, leaving the price setting to those forced by circumstances to sell and get what they can, driving prices further down and pushing yet more traditional players away from the markets. This leads to the question, why would the accounting literature require the use of a non-functioning market value? When the market is not working properly, then we must look to cash flows, as the "market" price may be an inaccurate measure of fair value. Although we believe SFAS 157 should permit this level of judgment, some in the accounting profession are disagreeing. The SEC needs to provide guidance in order to correct this situation. Many banks are seeking clarity on these issues and need quick resolution as the September 30 reporting deadline approaches.

Future Accounting Standard Changes

The problem: Additional accounting standards and other documents have been or will be exposed for comment that would, if issued, dramatically change the accounting for securitizations or require additional use of fair value accounting. One example is the proposed revision of Statement of Financial Accounting Standards No. 140. It is our understanding that these proposals are being undertaken by the FASB in response to requests by the SEC. However, the proposals could actually further exacerbate the problems in the marketplace. Insufficient time is being taken to comment, to analyze the impact, and to ensure that the changes will actually improve financial reporting, and in any event, such major changes will impose an adjustment period at precisely when market stability is needed.

[5] This should not be construed as ABA lending support to fair value accounting for financial instruments. ABA's position on fair value accounting has been clearly articulated in previous written documents.
[6] Credit losses embedded in the instrument would be deducted from value.

Our suggested solution: To address this situation, we recommend that there be a temporary stay on issuing any new accounting standards unless there has been a thorough analysis as to whether the proposed standards are clearly to the benefit of users of financial statements, whether fair value is pro-cyclical, and whether the impact of the proposals on the marketplace has been adequately taken into account and provided for. This will allow the FASB and the IASB to work jointly to transition to high quality, thoughtful, and streamlined domestic and international accounting standards while avoiding issuing standards that diverge from this goal and that may be very disruptive to the existing fragile markets.

In conclusion, our goal is to provide users of financial statements with relevant, reliable, and useful information. If there are misunderstandings about how to apply the literature, we hope we can resolve them. If there are problems with the literature itself, we hope to be able to influence timely change. Unfortunately, the cost of being wrong will result in some serious and unfortunate consequences with regard to some banks' regulatory capital in particular, and have broad negative effects on economic recovery in general. Therefore, we truly appreciate your immediate attention to these matters.

Sincerely,

Edward L. Yingling