

## **FASB Delays Further Deliberations and Decisions Regarding the Proposed ASU on Disclosure of Certain Loss Contingencies**

At its board meeting on November 10, 2010, the Financial Accounting Standards Board (“FASB”) discussed feedback received on the exposure draft of the proposed Accounting Standards Update, *Disclosure of Certain Loss Contingencies* (the “Proposed ASU”) and the FASB’s plan for further deliberations regarding the Proposed ASU.<sup>1</sup> The FASB staff reported that many respondents had expressed concern in the comment letters that the Proposed ASU was unnecessary and that the current disclosures of loss contingencies required by U.S. Generally Accepted Accounting Principles were sufficient; they believed that the real issue was not a lack of rules but, rather, the lack of compliance with existing rules.<sup>2</sup>

The FASB did not engage in deliberations or reach any decisions at the meeting on November 10th. It did, however, instruct the staff to coordinate with the staffs of the Securities and Exchange Commission (“SEC”) and the Public Company Accounting Oversight Board (“PCAOB”) to understand their efforts to address investor concerns about the disclosure of certain loss contingencies through an increased focus on compliance with existing rules.<sup>3</sup> The FASB also directed the staff to review filings from the 2010 calendar year-end reporting cycle to determine whether the efforts by the SEC and PCAOB ultimately result in improved disclosures about loss contingencies. After this review is completed, the FASB will decide whether additional user outreach or further deliberations on the Proposed ASU are needed. This means that the project will likely be delayed until at least the second quarter of 2011 or later.

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If you have any questions about the issues addressed in this memorandum or if you would like a copy of any of the materials mentioned, please do not hesitate to call or email Charles A. Gilman at 212.701.3403 or [cgilman@cahill.com](mailto:cgilman@cahill.com); Jon Mark at 212.701.3100 or [jmark@cahill.com](mailto:jmark@cahill.com); John Schuster at 212.701.3323 or [jschuster@cahill.com](mailto:jschuster@cahill.com); or Abigail Darwin at 212.701.3240 or [adarwin@cahill.com](mailto:adarwin@cahill.com).

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<sup>1</sup> The Proposed ASU was issued on July 20, 2010, and would update Accounting Standards Codification Topic 450--Contingencies (“ASC Topic 450”). See *Disclosure of Certain Loss Contingencies* (July 20, 2010), available at <http://www.fasb.org/cs/BlobServer?blobcol=urldata&blobtable=MungoBlobs&blobkey=id&blobwhere=1175821001041&blobheader=application%2Fpdf>. For further discussion, see our firm memoranda entitled, *FASB July 20, 2010 Exposure Draft re: Disclosure of Certain Loss Contingencies* (August 2, 2010), available at <http://www.cahill.com/news/memoranda/100230> and *FASB Decides to Postpone Effective Date Related to the Proposed ASU on Disclosure of Certain Loss Contingencies* (October 28, 2010), available at <http://www.cahill.com/news/memoranda/100249>. Prior to codification, ASC Topic 450 was known as FASB Statement No. 5, or FAS 5, *Accounting for Contingencies*.

<sup>2</sup> Over 350 comment letters were submitted in response to the Proposed ASU.

<sup>3</sup> For example, the FASB noted that the SEC has recently been providing comment letters to registrants which emphasize compliance with the existing standard. In addition, in October 2010, the SEC’s Division of Corporation Finance sent a letter to the Chief Financial Officers of certain public companies, in part reminding them of their disclosure obligations in SEC filings under the current standard. See *Sample letter Sent to Public Companies on Accounting and Disclosure Issues Related to Potential Risks and Costs Associated with Mortgage and Foreclosure-Related Activities or Exposures* (October 2010), available at <http://www.sec.gov/divisions/corpfin/guidance/cfoforeclosure1010.htm>.