Financial Accounting Standards Board Opts to Postpone Changes to Contingencies Disclosure

November 18, 2010

Summary

Following its meeting on November 18, 2010, the Financial Accounting Standards Board (FASB) announced that proposed changes to disclosure relating to Contingencies (Codification Topic 450), formerly known as Financial Accounting Standard 5 (FAS 5), would not be effective for the 2010 calendar year-end reporting period. Any changes to be made will subject to further deliberations by FASB.

Background

FAS 5 sets forth the guidelines for whether a contingent liability should be accrued and reported. This assessment is based upon the likelihood that the contingent event will occur and if the amount of such liability is known or can be reasonably determined. The likelihood is gauged as either "probable" (likely to occur), "reasonably possible" (more than remote but less than likely) or "remote" (unlikely to occur). FAS 5 currently requires a contingent liability to be recorded if (1) a loss is probable and (2) the amount of loss can be reasonably estimated. If either of the criteria is not met, and if there is at least a reasonable possibility that the loss will occur, only footnote disclosure should be made.

Postponed Changes

FASB issued an Exposure Draftof a proposed Accounting Standards Update (ASU) on July 20, 2010. The ASU would require companies to disclose qualitative (such as disclosure of the contentions of the parties and how users can obtain additional information) and quantitative (non-privileged and publicly available) information about loss contingencies to enable readers to understand the nature, the potential magnitude and the potential timing of such loss contingencies. The ASU would also modify the disclosure thresholds for required disclosure. Companies would be required to disclose information about a contingency if there is at least a "reasonable possibility" that a loss may have been incurred as opposed to just "probable" losses. Disclosure would not required for unasserted claims unless it is probable that a claim will be asserted and there is a reasonable possibility of an unfavorable outcome. Companies would also be required to disclose certain "remote" loss contingencies if the potential losses of such contingencies could have a "severe impact"[1] on the company (without giving consideration to the effect to the possibility of recoveries from insurance or indemnification). Annual and interim financial statements would need to include reconciliations by class, in tabular format of recognized (accrued) loss contingencies. Sufficiently similar classes or types of loss contingencies may be aggregated.

[1] Significant financially disruptive effect on the normal functioning of the company.