



D I S T R I C T O F C O L U M B I A B A R
S e c t i o n s

Litigation Section

Transmittal of Comments regarding File Reference No. 1600-100/Exposure Draft, "Proposed Statement of Financial Accounting Standards, Disclosure of Certain Loss Contingencies (an amendment of FASB Statements No. 5 and 141R)" to the Financial Accounting Standards Board

One Page Summary

The Litigation Section plans to submit comments regarding File Reference No. 1600-100/Exposure Draft, "Proposed Statement of Financial Accounting Standards, Disclosure of Certain Loss Contingencies (an amendment of FASB Statements No. 5 and 141R)" to the Financial Accounting Standards Board. On June 5, 2008, the Financial Accounting Standards Board (FASB) issued draft amendments to FASB Statement No. 5, *Accounting for Contingencies* (FAS 5). The amendments would redefine the disclosure requirements in FAS 5 for certain unrecognized loss contingencies that meet the definitional criteria of amended FAS 5, including potential losses from pending and threatened litigation. If adopted, the new requirements will be effective for fiscal years ending after December 15, 2008. FASB has stated that the proposed amendments stem from a concern that disclosures about loss contingencies under the existing FAS 5 standards do not provide adequate information to assist users of financial statements to assess the likelihood, timing, and amount of future cash flows associated with loss contingencies. Comments in writing are due to the FASB by August 8, 2008.

The Section's comments address significant concerns raised by the proposed amendments, including potentially requiring disclosure of key elements of a company's litigation strategy, the possible waiver of attorney-client privilege and attorney work-product protection, and that the increased disclosure may itself be the source of additional litigation.

The Steering Committee Members are Eric Angel, Theresa A. Coetzee, David Fauvre, Charles C. Lemley, David T. Ralston, Lorelie S. Masters, Mary L. Smith, Bruce V. Spiva, and Moxila A. Upadhyaya.

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