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The U.S. Department of Labor offers the follow responses to the questions from the above captioned Exposure Draft. For purposes of communication, the person responsible for the responses is Cynthia Simpson of my staff:

#### General Remarks

The U.S. Department of Labor (DOL) believes that it is preferable to have accounting standards that may accommodate different types of transactions, particularly those types of transactions with unique characteristics or which incur infrequently. An example of this type of transaction is the restructuring of the Black Lung Disability Trust Fund (the Fund) pursuant to the Emergency Economic Stabilization Act of 2008 (the Act).

The Act contained unique requirements for valuing the restructuring transaction and specified that the Fund's Advances from U.S. Treasury (Advances), plus accrued interest, be valued at "market value." The Act defined market value as the present value (determined by the Secretary of the Treasury as of the refinancing date and using the Treasury rate as the discount rate) of the stream of principal and interest payments derived. The carrying value of the Fund's outstanding Advances, plus accrued interest, was approximately \$10.5 billion and the market value (as determined by Treasury in accordance with the Act) was approximately \$13.0 billion, resulting in a recorded loss of approximately \$2.5 billion for the difference. The Office of Management and Budget (OMB) and the Treasury's Bureau of Public Debt provided guidance and assistance in the accounting for the restructuring.

We understand that accounting standards may not cover every circumstance. However, an accounting standard may be structured in a manner that may allow it to accommodate a variety of transactions and therefore provide better guidance to the Agencies.

## Hierarchy of Generally Accepted Accounting Principles

Q1. This Exposure Draft (ED) proposes to incorporate the hierarchy of generally accepted accounting principles (GAAP) that currently resides in the professional auditing literature into the FASAB's authoritative literature. Do you agree or disagree with the hierarchy presented in the Exposure Draft (see paragraphs 5 -8)? Please explain the reasons for your position in as much detail as possible.

DOL agrees with the hierarchy presented in the ED, with one exception: the accounting standard should include language that recognizes, in certain circumstances, that the requirements of legislation may specify an accounting treatment that may or may not be within the GAAP hierarchy. Furthermore, we have observed comments on the FASAB website which suggest that the GAAP hierarchy include guidance from the central guidance agencies, e.g., OMB or Treasury. We caution FASAB regarding the inclusion of OMB or Treasury guidance in the GAAP hierarchy; the legislative and judicial branches, as a general rule, are not required to comply with them.

## Application of Standards Issued by the Financial Accounting Standards Board

Q2. This ED proposes to regard general purpose financial reports prepared in conformity with accounting standards issued by the Financial Accounting Standards Board (FASB) as being in conformity with GAAP for those federal entities that have in the past issued such reports (see paragraph 9). Do you agree or disagree with the Board's position? Please explain the reasons for your position in as much detail as possible. To help you in preparing your response, a listing of some of the entities that apply FASB standards as well as some of the areas where differences occur is included in Appendix C: Examples of federal Entities that Apply FASB Standards.

We agree with the Board's position with regard to general purpose financial reports prepared in conformity with accounting standards issued by the FASB as being in conformity with GAAP for those Federal entities that have issued such reports in the past. This policy will help ensure comparability and consistency of the information provided in the general purpose reports of these entities.

Q3. This ED proposes to clarify that a federal entity that is preparing GAAP-based financial statements for the first time is required to implement FASAB standards unless the entity clearly demonstrates that the needs of its primary users would be best met through the application of FASB standards (see paragraphs 10 and 11). Do you agree or disagree with the Board's position? Please explain the reasons for your position in as much detail as possible.

For the most part, we agree with the Board's position to clarify that a Federal entity that is preparing GAAP-based financial statements for the first time is required to implement FASAB standards unless the entity clearly demonstrates that the needs of its primary users would be best met through the application of FASB standards. However, we

suggest that the Board also include language that jurisdiction of GAAP, for either new or existing entities, may be determined by legislation.

#### Separate Project on Reporting by Federal Entities that Primarily Apply Standards Issued by the FASB

The Board would greatly appreciate your responses to the following questions to aid in the Board's future deliberations on its companion project on reporting by federal entities that primarily apply standards issued by the FASB. Further information on this project may be found in paragraphs A7 through A16 of Appendix A: Basis for Conclusions and on the FASAB website at <http://www.fasab.gov/projectsgaap.html>.

Q4. The Board has tentatively decided that no federal entities will be required to convert to FASAB standards for their stand-alone general purpose financial reports at this time; however, the Board is considering whether additional reporting may be required in order to meet the objectives of federal financial reporting (e.g., budgetary reporting, cost accounting, management's discussion and analysis). What FASAB reporting requirements are you aware of that would complement or enhance current reporting by federal entities following FASB standards (see paragraphs A8 through A12 of Appendix A: Basis for Conclusions)? Please explain the reasons for your position in as much detail as possible.

DOL believes that FASAB GAAP reporting and disclosures regarding the budgetary basis of accounting may prove useful for those entities which receive a significant portion of their funding through Federal appropriations and would help enhance the information provided to meet the objectives of Federal financial reporting. However, this additional reporting should be encouraged or recommended, but not required.

Q5. As noted in the previous question, the Board has tentatively decided that no federal entities will be required to convert to FASAB standards for their stand-alone general purpose financial reports at this time; however, the Board is considering whether information provided by these entities to a parent agency or the U.S. Department of the Treasury for the consolidated financial report of the U.S. Government (CFR) should conform with accounting and reporting principles issued by the FASAB where there are material differences between the two sources (see paragraphs A13 through A15 of Appendix A: Basis for Conclusions). Do you agree or disagree that the information provided for consolidated financial reports should conform to FASAB accounting and reporting standards? Please explain the reasons for your position in as much detail as possible.

DOL believes that entities providing FASB GAAP information to a parent agency that prepares FASAB GAAP reports or to the Treasury for the CFR are probably already providing information needed to convert from FASB to FASAB GAAP to the preparers. Particularly for those entities who receive significant Federal appropriations, the FASAB should encourage or recommend, but not require, that entities provide information that

would help enhance the information to meet the objectives of Federal financial reporting, e.g., budgetary basis accounting.

Q6. Do you have a current opinion on whether federal entities that report in conformance with FASB standards should be permitted to convert to International Financial Reporting Standards (IFRS), given the discussions regarding whether public companies should use IFRS (see paragraph A16 of Appendix A: Basis for Conclusions)? Please explain the reasons for your position in as much detail as possible.

Currently, we have no opinion on whether Federal entities that report in conformance with FASB standards should be permitted to convert to IFRS. DOL will be in a better position to provide an opinion once the Securities Exchange Commission (SEC) has finalized their policy regarding the use of IFRS by U.S. issuers.

The official comment deadline for the SEC's Proposed Rule, "Roadmap for the Potential Use of Financial Statements Prepared in Accordance with International Financial Reporting Standards," is February 19, 2009. However, on the SEC's website, we noted that a number of respondents requested that the comment deadline be extended until April 30, 2009.

Thank you for the opportunity to comment on the Exposure Draft. Any questions or comments may be addressed to Ms. Cynthia D. Simpson, Accountant, Division of Financial Policy and Analysis, Office of Fiscal Integrity, Office of the Chief Financial Officer, U.S. Department of Labor, at [simpson.cynthia@dol.gov](mailto:simpson.cynthia@dol.gov) or (202) 693-6807.