2013-300
Comment Letter No. 25

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Via email to director@fasb.org

Technical Director
Financial Accounting Standards Board
401 Merritt 7, PO Box 5116
Norwalk, CT 06856-5116

RE: Proposed Accounting Standards Update – Presentation of Financial Statements (Topic 205)
Disclosure of Uncertainties about an Entity's Going Concern Presumption
File Reference No. 2013-300

Dear Technical Director:

The Accounting and Auditing Standards Interest Group of the New Jersey Society of Certified Public Accountants (NJSCPA) is pleased to offer its comments on the above referenced proposed standard. The NJSCPA represents over 15,000 certified public accountants and prospective CPA's. The comments herein represent those of some of the individuals of our Accounting and Auditing Standards Interest Group (Group) only, and do not necessarily reflect the views of all members of the NJSCPA.

We appreciate the Financial Accounting Standards Board's effort to provide guidance that addresses an entity's ability to continue as a going concern. Our responses to the following specific questions are derived from individuals representing both auditors and accountants in industry.

Question 1: *The proposed amendments would define going concern presumption as the inherent presumption in preparing financial statements under U.S. GAAP that an entity will continue to operate such that it will be able to realize its assets and meet its obligations in the ordinary course of business. Do you agree with this definition? If not, what definition should be used and why?*

We agree with the proposed definition of a going concern presumption, with the exception of the phrase "in the ordinary course of business" included in the proposed definition. We believe that the inclusion of this phrase will create confusion and diversity in practice when distinguishing plans that are in and outside the ordinary course of business. The proposed amendment's distinction between an entity's activities within the ordinary course of business and those that are outside the normal course of business will cause diversity in the reporting of similar actions for entities operating within the same or different industries. This can be evidenced by the example in the proposed standard regarding debt refinancing as it relates to an entity's "ordinary course of business". Two entities with substantially similar activities, with the exception of one entity having past refinancing activities, would result in different disclosure requirements. We suggest that the phrase "in the ordinary course of business" be defined and that

the FASB consider the inclusion of other factors in addition to an entity's past business decisions and performance. These considerations should include, but not be limited to, the consideration of customary actions of an entity's peers and industry practices. Below we have included one of the many examples our Group discussed regarding the type of confusion and diversity in practice this phrase would cause:

- Entities operating in certain industries, such as those in the garment industry, frequently factor their accounts receivable. If an entity operating within the garment industry decides to begin factoring their accounts receivable, this customary activity would fall outside the entity's "ordinary course of business" if the entity has never factored their accounts receivable. Therefore, two entities operating within the same industry, one that frequently factors accounts receivable compared to another that never factors their accounts receivable, will be assessed differently.

Question 2: *Currently, auditors are responsible under the auditing standards for assessing going concern uncertainties and for assessing the adequacy of related disclosures. However, there is no guidance in U.S. GAAP for preparers as it relates to management's responsibilities. Should management be responsible for assessing and providing footnote disclosures about going concern uncertainties? If so, do you agree that guidance should be provided in U.S. GAAP about the timing, nature, and extent of footnote disclosures about going concern uncertainties for SEC registrants and other entities? Why or why not?*

We agree that management is responsible for assessing and providing footnote disclosures about going concern uncertainties and that the guidance be provided in U.S. GAAP.

Question 3: *Would the proposed amendments reduce diversity in the timing, nature, and extent of footnote disclosures and provide relevant information to financial statement users? If so, would the proposed disclosures for SEC registrants provide users with incremental benefits relative to the information currently provided under other sections of U.S. GAAP and under the SEC's disclosure requirements?*

We agree that the proposed amendments would reduce diversity in the timing, nature and extent of footnote disclosures and thereby provide relevant information to financial statement users. However, as described in our response to Question 1, the proposed amendments would create new diversities in practice.

Question 4: *The proposed amendments would require management to evaluate going concern uncertainties and additionally, for SEC filers, to evaluate whether there is substantial doubt about the entity's ability to continue as a going concern. An alternative view is that such evaluations should not be required because management would inherently be biased and, thus, the resulting disclosures would provide little incremental benefit to investors. Do you believe that an entity's management has the objectivity to assess and provide disclosures of uncertainties about the entity's ability to continue as a going concern? Why or why not? If not, please also explain how this assessment differs from other assessments that management is required to make in the preparation of an entity's financial statements.*

We believe that management should evaluate an entity's going concern uncertainties. While management may be inherently biased, management is also in the best position to assess how an entity will meet its current and future obligations as they come due.

Question 5: *At each reporting period, including interim periods, the proposed amendments would require management to evaluate an entity's going concern uncertainties. Do you agree with the proposed frequency of the assessment? If not, how often should the assessment be performed?*

We agree that management should be required to evaluate an entity's going concern uncertainties at each reporting period, including interim periods.

Question 8: *The proposed footnote disclosures about going concern uncertainties would result in disclosure of some forward-looking information in the footnotes. What challenges or consequences, if any, including changes in legal liability for management and its auditors, do you anticipate entities may encounter in complying with the proposed disclosure guidance? Do you foresee any limitations on the type of information that preparers would disclose in the footnotes about going concern uncertainties? Would a higher threshold for disclosures address those concerns?*

The proposed footnote disclosures would create both operational and legal challenges for an entity. Management's plans to address potential inabilities to meet its obligations may include proprietary information and processes, that if disclosed could impact an entity's ability to compete with its competitors, thereby creating a conflict between management's ability to direct the company and provide relevant disclosures under U.S. GAAP.

Management would also be subject to legal exposure when attempting to predict adverse conditions that may exist beyond 12 months, as different financial statement users may have different expectations of negative trends or legal proceedings. Expanding forward looking information to 24 months, and requiring enhanced disclosures in and of itself may affect an entity's ability to continue its operations.

- An entity with frequent past refinancing activities, or one that frequently factors its receivables, as described in our response to Question 1, will generally do so within a 12, not 24 month period. Additionally most financial institutions grant 12, not 24 month waivers of debt covenants. Therefore, the inclusion of this information in order to comply with U.S. GAAP may adversely impact an entity's ability to obtain a waiver or refinancing.

Question 9: *What challenges, if any, could auditors face if the proposed amendments are adopted?*

We believe that the proposed guidance would create significant challenges and exposure to the auditors of an entity's financial statements. We support disclosure in an entity's footnotes that can be supported and verified. We are concerned about an auditor's ability to audit along with the lack of safe harbor rules for some of the forward looking information management would be required to include in an entity's financial statements.

Question 10: *Do the expected benefits of the proposed amendments outweigh the incremental costs of applying them?*

We believe that the proposed amendments would provide valuable information to the user of the financial statements during the subsequent 12 month period. However, projecting events beyond 12 months becomes less reliable and increases both the direct costs to management and the auditors, as well as the indirect costs associated with the possible legal liability of forward looking, speculative disclosures.

Question 11: *Under the proposed amendments, disclosures would start at the more-likely-than-not or at the known or probable threshold as described in paragraph 205-40-50-3.*

a. *Is the disclosure threshold appropriate? What are the challenges in assessing the likelihood of an entity's potential inability to meet its obligations for purposes of determining whether disclosures are necessary?*
b. *Are there differences between assessing probability in the context of transactions and assessing probability in the context of the overall state of an entity that are meaningful to determining the appropriateness of a probability model for assessing substantial doubt?*
c. *Do the proposed amendments adequately contemplate qualitative considerations? Why or why not?*
d. *Do you believe that the guidance in paragraph 205-40-50-4 about information on how an entity should assess the likelihood of its potential inability to meet its obligations and the implementation guidance within the proposed amendments are helpful and appropriate? Why or why not?*
e. *Are your views the same for SEC registrants and non-SEC registrants?*

We believe that the "more likely than not" criteria for the first 12 months is appropriate; however, assessing events that are known or probable for the following 12 months would be dependent on greater speculation and judgment and would not provide enough incremental benefit to exceed the incremental costs and potential legal liability.

As described in our response to Question 1, the determination of what does or does not meet the ordinary course of business will require added complexity and further judgment from management in interpreting its expected courses of action to run their business and how the entity's business obligations should be reported under the proposed amendments.

Question 12: *The proposed amendments would require an entity to assess its potential inability to meet its obligations as they become due for a period of 24 months after the financial statement date. Is this consideration period appropriate? Is it appropriate to distinguish the first 12 months from the second 12 months as proposed in the amendments? Why or why not?*

We believe that assessing the first 12 months beyond the financial statement date is appropriate. Information surrounding the events and circumstances for the first 12 month period can be assessed with greater accuracy and reliability than the second 12 month period. Predicting conditions that could exist during the second 12 month period becomes highly speculative and subjective which would rely solely on management's judgment. Due to this uncertainty in forecasting conditions, plans and mitigating factors for the second 12 month period, we do not believe that a 24 month disclosure would provide any additional decision usefulness.

Question 13: *Under the proposed amendments, management would be required to distinguish between the mitigating effect of management's plans in and outside the ordinary course of business when evaluating the need for disclosures. Is this distinction relevant to determining if and when disclosures should be made? If so, explain how management's plans should be considered when defining the two different disclosure thresholds.*

We agree that it is necessary to disclose the actions that management intends to take to address a potential inability to meet its obligations, however, the amendment as proposed will create confusion and diversity in practice when distinguishing plans that are in or outside the ordinary course of business, as described in our response to Question 1.

Question 14: *Do you agree with the definition of management's plans that are outside the ordinary course of business as outlined in paragraph 205-40-50-5 and the related implementation guidance?*

We believe that the definition of management's plans that are outside the ordinary course of business is vague and subject to interpretation, thereby creating further complexities and diversity in practice as management attempts to comply with U.S. GAAP. As described in our response to Question 1, we believe that this guidance should be clarified and revised.

Question 15: *Do you agree with the nature and extent of disclosures outlined in paragraph 205-40-50-7? Should other disclosure principles be included?*

We believe that the proposed disclosure requirements are adequate.

Question 16: *The proposed amendments define substantial doubt as existing when information about existing conditions and events, after considering the mitigating effect of management's plans (including those outside the ordinary course of business), indicates that it is known or probable that an entity will be unable to meet its obligations within a period of 24 months after the financial statement date. Do you agree with this likelihood-based definition for substantial doubt? Do you agree with the 24-month consideration period? Why or why not? Do you anticipate any challenges with this assessment? If so, what are those challenges?*

We agree with the proposed amendments in determining the need to disclose substantial doubt, with the exception of the 24 month period. As previously discussed, we believe that the disclosure of conditions and events beyond a period of 12 months becomes less reliable, involves substantial speculation and does not provide additional decision making usefulness.

Question 17: *Do you agree that an SEC filer's management, in addition to disclosing going concern uncertainties, should be required to evaluate and determine whether there is substantial doubt about an entity's ability to continue as a going concern (going concern presumption) and, if there is substantial doubt, disclose that determination in the footnotes?*

We agree that management of an SEC filer should perform this assessment and provide the related disclosures.

Question 18: *Do you agree with the Board's decision not to require an entity that is not an SEC filer to evaluate or disclose when there is substantial doubt about its going concern*

presumption? If not, explain how users of non-SEC filers' financial statements would benefit from a requirement for management to evaluate and disclose substantial doubt.

We agree that a non-SEC filer should not be subject to the substantial doubt criteria.

Question 19: *The Board notes in paragraph BC36 that its definition of substantial doubt most closely approximates the upper end of the range in the present interpretation of substantial doubt by auditors. Do you agree? Why or why not? Assuming it does represent the upper end of the range of current practice, how many fewer substantial doubt determinations would result from the proposed amendments? If the proposed amendments were finalized by the Board and similar changes were made to auditing standards, would the occurrence of audit opinions with an emphasis-of-matter paragraph discussing going concern uncertainties likewise decrease and be different from what is currently observed? If so, by how much? Is such a decrease an improvement over current practice? Why or why not?*

We believe that SEC filers should disclose when there is substantial doubt about the entity's ability to continue as a going concern.

Thank you for the opportunity to comment. We are available to discuss our comments at your convenience.

Respectfully submitted,

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