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December 8, 2015

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

RE: Exposure Drafts:
- **"Conceptual Framework for Financial Reporting – Chapter 3: Qualitative Characteristics of Useful Financial Information" (File Reference No. 2015-300); and**
- **"Notes to Financial Statements (Topic 235): Assessing Whether Disclosures Are Material" (File Reference No. 2015-310)**

Dear Technical Director:

We appreciate the opportunity to comment on the FASB Exposure Drafts, *Conceptual Framework for Financial Reporting – Chapter 3: Qualitative Characteristics of Useful Financial Information* and *Notes to Financial Statements (Topic 235): Assessing Whether Disclosures Are Material*.

While eliminating the current definition of materiality in Concepts Statement 8 and replacing it with a broad observation of the U.S. Supreme Court definition of materiality may remove some uncertainties identified by the Board in the course of its project, we believe there are additional concerns the Board needs to consider as it continues debating this issue.

The primary concerns we have stem from defining the concept of materiality as used in the U.S. accounting framework to be a legal concept. While we understand that legal considerations may influence consideration of materiality, and that the Supreme Court definition is acknowledged by the profession as a reference point, we believe the concept of materiality as used in Concepts Statement 8 has been, and should remain a financial reporting concept, not a legal concept. Some of the concerns with having materiality as a legal concept include, but are not limited to, the following:

- To make a legal concept of materiality a pervasive concept in financial reporting would subject preparers and auditors to making legal determinations in their everyday reporting and auditing judgments.
- Costs may increase if financial reporting management, audit committees and auditors find it necessary to seek legal guidance to properly apply a legal concept to the preparation and auditing of financial statements, or to minimize litigation and regulatory risk to the reporting entity or auditor, respectively.

- It is unclear whether and how the U.S. Supreme Court definition of materiality would apply in certain circumstances, such as U.S. GAAP financial statements prepared and used solely in a foreign country.

We understand that the Supreme Court definition is broad based and subject to ongoing interpretation by litigants and the courts. We believe that leaving a fundamental concept in the accounting literature to legal interpretation would result in less consistency in financial reporting than the FASB would achieve by making it an accounting definition. We also believe it could impede on preparers' and auditors' ability to discuss materiality in a meaningful manner. Currently, preparers and auditors have defined frameworks to assist them in discussing and assessing the significant information needs of users of the financial statements. There is considerable professional judgment required in this assessment which can include a number of factors such as financial, economic, regulatory and legal issues. If there is no longer a defined accounting framework to assess materiality, or if this assessment is subject to a variety of legal interpretations, it would impair the ability of preparers and auditors to engage in meaningful discussions regarding this fundamental accounting and audit matter.

Therefore, we believe it would be preferable for the FASB to continue to consider the issues of materiality and accounting errors in a more holistic manner and with a broader group of stakeholders, including the U.S. Securities and Exchange Commission, the Public Company Accounting Oversight Board and the AICPA Auditing Standards Board.

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We look forward to working with the Board as it continues to explore additional opportunities for improving the effectiveness of disclosures. Our responses to the Board's specific questions in the proposed Concepts Statement and ASU are included in Appendices I and II respectively. If you have questions about our comments or wish to discuss the matters addressed herein, please contact Kimber Bascom at (212) 909-5664, or Prabhakar Kalavacherla at (415) 963-8657.

Sincerely,

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Appendix I – Responses to Questions
Conceptual Framework for Financial Reporting
Chapter 3: Qualitative Characteristics of Useful Financial Information
(File Reference No. 2015-300)

Question: *Do the proposed amendments improve Concepts Statement 8? If so, how? If not, why?*

No, for the reasons stated in the cover to this letter.

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Appendix II – Responses to Questions
Notes to Financial Statements (Topic 235)
Assessing Whether Disclosures Are Material
(File Reference No. 2015-310)

Question 1: *Would assessing materiality subject to the proposed changes to paragraphs 235-10-50-7 through 50-8 be any easier than under current GAAP? If yes, please explain why.*

No. While the assessment of materiality would continue to require a significant judgment, we believe the proposed amendments may actually result in increased complexity for the reasons stated in the cover of this letter.

Question 2: *Would applying the amendments in this proposed Update significantly increase or reduce costs of preparing the notes to financial statements? Why or why not?*

Evaluating the costs of any proposed accounting changes is necessarily subjective. However, we believe the proposed amendments may increase costs to preparers and auditors. In some cases increases in costs may be significant. Some costs of preparing the notes to financial statements may include:

- Entities may need to implement new processes and controls. This likely would result in incremental implementation and ongoing costs for preparers and auditors, as management review controls receive more scrutiny due to higher risks of material misstatements.
- The accumulation and communication of disclosure omissions to audit committees, which arguably does not represent a significant cost, would be replaced with other communication requirements that could have higher costs (e.g., required legal judgments).
- Accountants and auditors may need legal assistance in determining whether all material information has been provided in the financial statement notes. This would be more problematic for companies such as private companies and smaller public companies with no or minimal existing legal resources.

Question 4: *Do you expect regulatory, legal, or audit consequences that would affect your ability to consider materiality when selecting information to be disclosed in notes to financial statements? Please explain.*

Regardless of whether materiality is an accounting or legal concept, evaluating materiality will remain a significant judgment. In that regard, preparers, users, regulators and auditors may arrive at different materiality conclusions.

We believe the following factors may affect an entity's ability to consider materiality when preparing disclosures.

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- The communication of disclosure omissions replaced with other communication requirements (e.g., significant judgments made), which might require more time and effort to communicate.
- Differences between accounting and auditing standards. For example, auditors are required to accumulate identified misstatements that are more than clearly trivial. In that sense, *clearly trivial* is not another expression for *not material*. Matters that are clearly trivial will be of a smaller order of magnitude than materiality.
- Increased litigation concerns as attorneys interpret the "legal concept" for purposes of litigation and regulatory enforcement actions.
- Continued regulatory concerns.

For these reasons, we disagree with the Board's assertion in paragraph BC13 that the proposed amendments would address the issues listed in paragraph BC12(b).

Question 5: *How would you disclose information in comparative financial statements if your assessments of materiality differed in different years?*

We encourage the Board to provide additional guidance for circumstances in which a disclosure is material in one year and not in other years presented. The Board may consider the guidance recently issued by the IASB in IFRS Practice Statement: *Application of Materiality to Financial Statements*, when deliberating this issue.

Question 6: *Should the Board eliminate from the Accounting Standards Codification phrases like "an entity shall at a minimum provide" and other wording that could appear to limit an entity's discretion to omit immaterial disclosures? Are there particular Topics or Sections in which those changes should not be made? Are there additional paragraphs within the Accounting Standards Codification in which the wording is particularly restrictive and is not identified in Appendix B of this proposed Update? If so, please identify them.*

We support eliminating from the Accounting Standards Codification phrases like "an entity shall at a minimum provide" and other wording that could appear to limit an entity's discretion to identify immaterial disclosures. However, we believe the FASB should consider making those changes without continuing with the proposals about the definition of materiality as discussed elsewhere in our response.

Question 7: *Do you agree with the proposed amendment that would explicitly state that the omission of an immaterial required disclosure is not an accounting error? Why or why not?*

No. We believe explicitly stating that the omission of an immaterial required disclosure is not an accounting error would create complexity and increase confusion with respect to the application of ASC paragraph 105-10-05-6, which states that "[t]he provisions of the Codification need not be applied to immaterial items." There are audit requirements related to accumulating and communicating misstatements when items are more than clearly trivial, which is of a smaller order of magnitude than materiality as described in our response to Question 4. In addition, the proposed amendments would not apply by analogy to other Codification sections such as presentation and measurement, resulting in different materiality assessments between the basic financial statements and the notes. We also believe there could be issues of legal interpretation in making this determination if materiality is a legal concept as discussed throughout this letter.