new york state society of
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certified public accountants

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January 29, 2007

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

By email: director@fasb.org

Re: Exposure Draft - Proposed Statement of Financial Accounting Standards Not-for-Profit Organizations: Mergers and Acquisitions

To Whom It May Concern:

The New York State Society of Certified Public Accountants, representing 30,000 CPAs in public practice, industry, government and education, submits the following comments to you regarding the above captioned exposure draft. NYSSCPA thanks the FASB for the opportunity to comment on this release.

The NYSSCPA Financial Accounting Standards and Not-for-Profit Committees deliberated the Exposure Draft and prepared the attached comments. If you would like additional discussion with the committees, please contact Margaret Wood, chair of the Financial Accounting Standards Committee, at (212) 542-9528, Allan M. Blum, chair of the Not-for-Profit Organizations Committee, at (212) 867-4000 or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

Thomas E. Riley
President

Attachment

NEW YORK STATE SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS
COMMENTS ON FASB EXPOSURE DRAFT

Not-for-Profit Organizations: Mergers and Acquisitions

January 29, 2007

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NEW YORK STATE SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS

FINANCIAL ACCOUNTING STANDARDS COMMITTEE
NOT-FOR-PROFIT ORGANIZATIONS COMMITTEE

COMMENTS ON FASB EXPOSURE DRAFT

Not-for-Profit Organizations: Mergers and Acquisitions

File Reference No. 1500-100

General Comments

The Financial Accounting Standards and Not-for-Profit Committees of the New York State Society of Certified Public Accountants have reviewed the Exposure Draft and are pleased to present their comments thereon.

Except for issues related to specific questions as noted below, we agree with the majority of the Board's decisions regarding when not-for-profit accounting should align with commercial accounting and when it should not. We understand the necessity for such differences since not-for-profit organizations differ from for-profit organizations in the most basic sense. For-profit organizations are formed to accumulate and concentrate wealth for their owners. Their activities are a means to this end. For not-for-profit organizations, the statement of activities has primacy and provides the more critical information that users of such financial statements require. For this reason we are concerned with the proposed presentation of the residual credit (the "inherent contribution"), as indicated in our comment below.

On an overall basis, the guidance is comprehensive and understandable to the "average" practitioner. Further, we believe that the criteria for decision making appear sufficient and appropriate.

We are concerned, however, that this standard does not provide a more focused discussion of the concept of "programs" when addressing acquisitions and divestitures of not-for-profit activities. This concept is ubiquitous to the not-for-profit industry and does not have a clear analogy to the commercial arena. The assumption/acquisition of a program can have a significant impact on a not-for-profit organization, both financially and intangibly, in raising its profile and visibility. Similarly, some programs and not-for-profit activities have defined limited lives (whether defined by governmental/legislative constraints or by purpose, mission or circumstance). This contrasts to commercial activities which are presumed to be going concerns. We believe that the standard should specifically address this unique attribute of not-for-profit activities.

Specific Responses to Questions

Scopes and Definitions Question 3—*Is the retention of and reliance on the existing guidance on consolidation in SOP 94-3 and the Health Care Guide appropriate? If not, why and what alternative do you suggest?*

Response: The existing guidance is generally appropriate. However, we also note that there are situations where the concept of control can be unclear and may not be adequately addressed in the guidance in SOP 94-3 and the Health Care Guide. One example is a "Friends of" organization whose entire mission and existence relates to raising money to support a specific not-for-profit organization. Such organizations are a form of "special-purpose-entity".

The issue of consolidation is closely interwoven with the issues of merger and acquisition. The Board should consider addressing the existing consolidation guidance in light of the existence of examples such as these.

Question 4—*Are the definitions of a business and a nonprofit activity appropriate for distinguishing between a merger or acquisition subject to the provisions of this proposed Statement and a purchase of assets that would be accounted for in accordance with other generally accepted accounting principles (GAAP)? If not, why and how would you modify or clarify the definitions or the related guidance?*

Response: The definitions are, for the most part, appropriate. However, we believe that the concept of "programs" and how it fits the definition needs to be addressed. Paragraph A.3 states the following:

> "To be capable of being conducted and managed for the purposes defined, an integrated set of activities and assets requires two essential elements—inputs and processes applied to those inputs—that together are or will be used to create outputs. However, a business or nonprofit activity need not include all of the inputs or processes that the seller used in operating that business or nonprofit activity if a willing party is capable of acquiring the business or nonprofit activity and continuing to produce outputs, for example, by integrating the business or nonprofit activity with its own inputs and processes."

This raises the question whether the assumption by one not-for-profit organization of specific *program activities* of another, with or without the assumption of any significant assets or processes (instead integrating the activity into its own inputs and processes), constitutes an acquisition of a not-for-profit activity pursuant to this statement.

Recognizing and Measuring the Goodwill or the Contribution Receivable

Question 11—*Is the requirement of this proposed Statement that the acquirer recognize a contribution inherent in the merger or acquisition, measured as a residual, appropriate? If not, why and what alternative do you suggest?*

Response: In order to properly show the transaction in the statement of activities, we believe that the contribution generated from the merger or acquisition should be shown as an "other change in net assets", in effect, below the line reporting. This presentation is consistent with the reporting in accordance with the AICPA Audit and Accounting Guide for Healthcare Organizations, whereby it is shown outside of the measure of operations. This is necessary to properly distinguish the contribution generated from the transaction from general contributions (support) that are received from the public.

Question 12—*Do you agree that a measurement period should be provided? Do you agree that a limit of one year following the acquisition date is appropriate? If not, why and what alternative do you suggest?*

Response: A one-year measurement period is generally appropriate and is consistent with that used for commercial enterprises. However, consideration should be given to the fact that not-for-profit entities may engage in certain transactions where the one-year rule may not provide sufficient time for properly assessing the assets and liabilities acquired.

Not-for-profit organizations often receive funds from sources (both governmental and private) that have the ability to audit or otherwise require an accounting after several years. Such audits and accountings may result in either decreases or increases to previously recognized amounts. The standard should address how such potential increases and decreases should be evaluated and accounted for.

In other cases, assets that are funded by government financing or loan guarantees may revert to the state after several years if certain conditions are not met. Similarly, there may be situations where there are provisions where government-funded debt is forgiven if certain conditions are met. The standard should address whether the existence of such situations present special measurement or recognition issues.

Question 14—*Do you agree with the disclosure objectives? Do you agree with the specified minimum disclosure requirements? If not, why and what alternative do you suggest?*

Response: We agree with the disclosure objectives and requirements. However, we would add one very important disclosure objective - how the acquisition alters, changes or adds to the mission of the not-for-profit organization.