

Frederic W. Cook & Co., Inc.

New York • Chicago • Los Angeles

September 16, 2005

**FASB Provides Relief
on Grant-Date Communication Issue**

The Financial Accounting Standard Board (FASB) on September 14 decided to add a project to its technical agenda that would reverse the FASB staff's view that the grant date for equity compensation under Statement 123(R) cannot occur until the key terms and conditions of the award are communicated to employees. The relief is in the form of proposed FASB Staff Position (FSP) FAS-123(R)-b (released September 16), which would establish the grant date on the relevant Board/Committee approval date provided the following conditions are satisfied:

- ⇒ The employee does not have the ability to negotiate the key terms and conditions of the award
- ⇒ The key terms and conditions of the award are communicated to employees *within a relatively short time period* following Board/Committee approval

“Key terms and conditions” are not explicitly defined in Statement 123(R), but presumably would include the number of shares, exercise price (if any), vesting conditions, etc. The proposed FSP defines a relatively short time period as “... that period an entity could plausibly complete all actions necessary to communicate the awards to the recipients in accordance with the entity's customary human resource practices.”

The proposed FSP will be exposed for a 15-day comment period ending October 1, and will be effective upon initial adoption of Statement 123(R) (or the date the final FSP is posted to the FASB's website for companies already under Statement 123(R)).

This guidance is significant because it essentially codifies the longstanding accepted practice for determining grant date under APB Opinion 25 and original Statement 123(R), and thus most companies will not have to change their governance or grant practices. We urge our readers to comment in favor of the proposed FSP.

* * * * *

General questions about this letter may be addressed to Thomas M. Haines in our Chicago office at 312-332-0910 or by e-mail at tmhaines@fwcook.com. Copies of this letter and other related materials, including our summary of Statement 123(R), are available on our website at www.fwcook.com.