

**Interpretation of the Emerging Accounting Issues (E) Working Group****INT 09-03: EITF 08-7: Accounting for Defensive Intangible Assets****ISSUE NULLIFIED BY SSAP NO. 20****INT 09-03 Dates Discussed**

March 15, 2009; June 13, 2009

**INT 09-03 References**

*SSAP No. 20—Nonadmitted Assets (SSAP No. 20)*

**INT 09-03 Issue**

1. EITF 08-7 clarifies how to account for defensive intangible assets subsequent to initial measurement. Guidance included within EITF 08-7 identifies defensive intangible assets and the accounting questions as follows:

2. An intangible asset acquired in a business combination or an asset acquisition that an entity does not intend to actively use but does intend to prevent others from using, has been commonly referred to as a "defensive asset" or a "locked-up asset" because while the asset is not being actively used, it is likely contributing to an increase in the value of other assets owned by the entity.
3. Historically, when an entity acquired a business or group of assets, it typically allocated little or no value to the intangible assets that it did not intend to actively use, regardless of whether another acquirer might have continued to actively use them. However, after the effective date of Statement 141(R), an intangible asset must be recognized at fair value in accordance with Statement 157, regardless of how the entity intends to use that asset.
4. Upon the effective date of both Statement 141(R) and Statement 157, entities will generally assign a greater value to a defensive intangible asset than would have typically been assigned under Statement 141. As a result, questions have arisen in practice regarding how defensive intangible assets should be accounted for subsequent to their acquisition, including the estimated useful life that should be assigned to such assets.

2. EITF 08-7 applies to acquired intangible assets in situations in which an entity does not intend to actively use the asset but intends to hold (lock up) the asset to prevent others from obtaining access to the asset (a defensive intangible asset), except for intangible assets that are used in research and development activities.

3. Pursuant to paragraphs 9-11 of EITF 08-7 an intangible defensive asset shall be accounted for as follows:

9. A defensive intangible asset should be accounted for as a separate unit of accounting. It should not be included as part of the cost of an entity's existing intangible asset(s) because the defensive intangible asset is separately identifiable.
10. A defensive intangible asset shall be assigned a useful life in accordance with paragraph 11 of Statement 142.

11. A defensive intangible asset shall be assigned a useful life that reflects the entity's consumption of the expected benefits related to that asset. The benefit a reporting entity receives from holding a defensive intangible asset is the direct and indirect cash flows resulting from the entity preventing others from realizing any value from the intangible asset (defensively or otherwise). An entity shall determine a defensive intangible asset's useful life, that is, the period over which an entity consumes the expected benefits of the asset, by estimating the period over which the defensive intangible asset will diminish in fair value. The period over which a defensive intangible asset diminishes in fair value is a proxy for the period over which the reporting entity expects a defensive intangible asset to contribute directly or indirectly to the future cash flows of the entity

#### **INT 09-03 Discussion**

4. The concept of admitting intangible assets has previously been rejected for statutory accounting. Guidance in *SSAP No. 20—Nonadmitted Assets* (SSAP No. 20) clearly indicates that intangible assets are not readily marketable and available to satisfy policyholder obligations and shall be nonadmitted. As defensive intangible assets are considered assets, but are not readily marketable and available to satisfy policyholder obligations, the Working Group reached a consensus asserting that defensive intangible assets shall be recognized as assets, but are captured within the SSAP No. 20 definition of intangible assets and are nonadmitted for statutory accounting.

#### **INT 09-03 Status**

5. No further discussion planned.