



VIA Electronic Mail

November 21, 2005

Mr. Lawrence W. Smith
Director, TA&I-FSP
Financial Accounting Standards Board
401 Merritt 7
Norwalk, Connecticut 06856

Re: Proposed FSP 133-a, *Accounting for Unrealized Gains (Losses) Relating to Derivative Instruments Measured at Fair Value under Statement 133*

Dear Mr. Smith:

The Mortgage Bankers Association¹ is pleased to have the opportunity to comment on the above-referenced proposed FASB Staff Position (the proposed FSP) which addresses when unrealized gains and losses shall be recognized in earnings when a derivative is acquired. MBA supports the guidance in the FSP but believes it is inconsistent with the guidance in SEC Staff Accounting Bulletin No. 105, *Application of Accounting Principles to Loan Commitments* (SAB 105), on valuing commitments to originate loans that are derivatives under Statement No. 133, *Accounting for Derivative Instruments & Hedging Activities*. MBA believes this inconsistency should be addressed in the proposed FSP.

MBA Position

SAB 105 states that estimates of the fair values of derivative loan commitments cannot include expected cash flows relating to the servicing of the loan to be originated. By contrast, the proposed FSP effectively would require those cash flows to be included in estimates of the fair values of derivative loan commitments if they would be included in the assumptions that marketplace participants would use in valuing them. MBA strongly supports the fair value guidance in the FSP which is consistent with the concept of fair value throughout the authoritative literature.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 500,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 3,000 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

Basis for MBA Position

The proposed FSP addresses the accounting for unrealized gains and losses on derivatives that are not acquired in their "reference markets."² In those circumstances, the fair values of the derivatives should be estimated (generally using valuation models) for the purpose of determining their reference market prices. Thereafter, differences between their transaction prices and estimated reference market prices would be reported in earnings provided the estimated prices (i.e. fair values) meet a "minimum reliability threshold."

The threshold would be met if the estimate of the fair value of a derivative falls within Levels 1-4 of the fair value hierarchy in proposed FASB Statement 15X, *Fair Value Measurements* (proposed Statement 15X). However, if an estimate of the fair value of a derivative falls within the fifth (and final level) of the hierarchy, any unrealized gain (loss) would be deferred and recognized when the minimum reliability threshold is met. The proposed FSP relies on the guidance in Proposed Statement 15X for determining fair values which states: "In developing the [fair value] estimate, the emphasis is on the assumptions that marketplace participants in the reference market for the asset or liability would use in their estimate of fair value."³

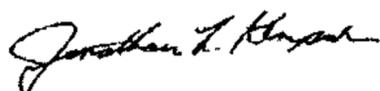
Within the context of derivative loan commitments, including commitments to purchase loans that meet the definition of a derivative in Statement No. 133, "...marketplace participants in the reference market ..." would be lenders with an interest in acquiring the commitments. As lenders would include all *expected* cash flows in bidding on the commitments, the proposed FSP likewise would require holders of commitments to include all cash flows (that marketplace participants would expect) in estimates of their fair values. This guidance, however, conflicts with the guidance in SAB 105 which specifically prohibits "...expected future cash flows related to the associated servicing of the loan..." from being included in those estimates.

Conclusion

MBA supports the fair value guidance in the proposed FSP but believes it is inconsistent with the guidance in SAB 105 for estimating the fair values of derivative loan commitments. MBA recommends that the Board amend the guidance in the FSP to expressly state that it supersedes or otherwise changes the guidance in the SAB. We believe the FSP should address the guidance in the SAB regardless of whether estimates of the fair values of derivative loan commitments are deemed to fall within level five of the fair value hierarchy.

Thank you again for the opportunity to comment on the proposed FSP. Any questions about our comments should be directed to Alison Utermohlen, Staff Representative to MBA's Financial Management Committee, at (202) 557-2864 or autermohlen@mortgagebankers.org.

Most sincerely,



Jonathan Kempner
President & CEO

Cc: Scott Taub, Acting Chief Accountant, Securities & Exchange Commission

² "The reference market is the most advantageous market in which the entity would transact for the asset or liability."
(See paragraph 2 of the proposed FSP).

³ See paragraph 6 of Proposed Statement 15X.