



October 31, 2003

Mr. Lawrence W. Smith
Director, TA&I-FSP
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116
Re: FSP 150-c

Dear Mr. Smith:

I am writing to comment on Proposed FASB Staff Position No. 150-c. This comment letter was developed in conjunction with the National Cooperative Business Association (NCBA), and Credit Union National Association (CUNA) Accounting Task Force. NCBA is a national association serving all types of cooperative businesses throughout the United States. CUNA is a national credit union trade association, representing more than 90 percent of the nation's 10,000 state and federal credit unions.

While the Proposed FASB Staff Position No. 150-c does not specifically impact credit unions, it could have a significant impact on other type of cooperative organizations. These businesses are owned and democratically controlled by their members – the people who use the cooperative's services or buy its goods – not by investors. Cooperative entities provide tremendous value to members/owners, and we believe that providing additional guidance, as well as deferring the effective date to act on the guidance received would be in the best interest of all parties.

Request for Additional FASB Guidance

While the Proposed FASB Staff Position only addressed the effective date for these instruments, we further requests that the Board clarify that member equity in a cooperative business is not mandatorily redeemable when the board of directors retains discretion whether and when to redeem that equity.

Members of a cooperative join primarily to receive the benefit from patronizing the business, not to receive a return on their investment. Members provide equity capital to the cooperative to finance its business operations, but they recognize that this equity is risk capital. The board of directors of a cooperative may choose to redeem equity to deceased members or others no longer doing business with them in order to keep ownership in the hands of members actively doing business with the cooperative. However, attempts to align ownership of the cooperative with its use by members are always subject to the fiduciary duty of the board of directors to the financial well-being of the entire cooperative.

220 Donald Lynch Boulevard, PO Box 9130, Marlborough, MA 01752-9130 • 800/328-8797

Member equity, though, always retains the character of equity if the board of directors has the discretion to redeem or not to redeem it. Courts have affirmed that the board of a cooperative can

"exercise the discretion it has been granted to determine when the cooperative is financially able to redeem patronage equity," *Great Rivers Cooperative v. Farmland Industries*, 198 F.3d 685 (1999). By contrast, the board does not have this discretion for debt owed by the cooperative. When a cooperative finds itself in bankruptcy, all of the creditors are paid before any of the equity held by members is redeemed. As such, member equity retains the characteristics of true equity.

We are learning that different accountants are interpreting FAS 150 differently in identical fact situations. In cases in which the bylaws do not require redemption of members' equity and the board of directors has discretion whether and when to redeem, some accountants plan to continue presenting members' equity as equity, whereas other accountants interpret FAS 150 to require liability classification. Since there appear to be divergent practices among accountants on this issue, the Board should provide guidance and hold that member equity is not mandatorily redeemable and will be treated as equity on a cooperative's balance sheet when the board of directors retains the authority to redeem that equity.

We are concerned that reclassifying member equity in a cooperative as a liability on its balance sheet could also result in a legal obligation to redeem that equity. The authority of the cooperative's board of directors, now recognized by law, might be compromised by presenting the members' shares as a liability, and member equity would truly become mandatory obligations of the cooperative. This would seriously impair the ability of cooperatives to raise and retain capital for their business operations.

Support for Deferral of Effective Date

For those co-ops whose shares are mandatorily redeemable as defined in FAS 150, the required accounting change will put many in default under loan agreements. It could take cooperative businesses and other nonpublic entities at least one year to make the necessary amendments to loan agreements. Some affected co-ops may want to amend their bylaws or adopt new policies so that their shares are not mandatorily redeemable under FAS 150. Those changes, because they involve large groups of shareholders, could be more time consuming. Therefore, we support deferring the effective date of FAS 150 for mandatorily redeemable financial instruments of nonpublic entities for at least one year. We request that the Board consider deferring the effective date for these instruments two years, to fiscal periods beginning after December 15, 2005, to allow adequate time for communicating the need for changes to co-op shareholders.

Thank you for your consideration of these issues, which we believe are critical to many cooperative businesses throughout the country.

Sincerely,

James F. Regan
Senior Vice President – Chief Financial Officer
Digital Federal Credit Union