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LETTER OF COMMENT NO. //

January 31, 2007

Comments on Proposed FASB Staff Position No. FIN 39-a, *Amendment of FASB Interpretation No. 39*

Dear Mr. Smith:

UBS appreciates the opportunity to comment on the proposed FASB Staff Position No. FIN 39-a, *Amendment of FASB Interpretation No. 39*. UBS is a global financial services firm that prepares its primary financial statements in accordance with International Financial Reporting Standards (IFRS) and reconciles its reported amounts to US GAAP pursuant to US securities regulations. Before responding specifically to the proposed FSP, we would like to highlight our principal concern related to the issue of accounting for the right of offset (or “netting”)—international convergence.

IFRS and US GAAP have similar principles for netting; however, there are key differences, the most important of which relates to the intent-to-set-off exception for derivatives permitted by paragraph 10 of Interpretation 39, *Offsetting of Amounts Related to Certain Contracts*. IFRS has no such exception; therefore, IFRS-based reporting entities cannot net derivative contracts that meet the conditions of paragraph 10.

Many of our key competitors are firms whose primary financial statements are prepared in accordance with US GAAP. Thus, this IFRS-US GAAP difference creates an unlevel playing field; this project exacerbates that difference. This IFRS-US GAAP difference puts UBS and other IFRS-based reporting entities at an informational disadvantage. This disadvantage is becoming more significant as some credit-rating agencies and banking regulators are currently considering how balance-sheet leverage should affect credit ratings and capital requirements.

Given the importance of this issue, we respectfully request that the FASB and IASB consider adding a project to their agendas to converge the accounting for the right of offset. Furthermore, we recommend that the FASB staff include a paragraph in the basis for conclusions of the proposed FSP that highlights this difference with IFRS.

Notwithstanding the convergence issue above, we generally support the proposed FSP; however, we have the following specific comments on the proposed FSP:

The Fair Value of a Cash-Collateral Receivable or Payable: The proposed FSP refers to fair value amounts of cash-collateral receivables and payables without providing any guidance on determining whether the amounts are at fair value. At the very least, we recommend that one of the illustrations provide some discussion of the minimum factors that should be taken into account in making that determination (for example, interest rates are reset frequently). More helpful would be an example that provides more specificity. Because many cash-collateral arrangements accrue interest based on an interest rate that is reset daily, we think that that characteristic should be sufficient to conclude that cash-collateral receivables and payables qualify for netting under the proposed FSP. Any such guidance that can be provided in the proposed FSP (or in the basis for conclusions to better understand which types of arrangements Board members were thinking of) would improve consistent application among entities.

On a related note, we understand that the Board specified that cash-collateral receivables and payables must be measured at fair value to qualify for netting under paragraph 10 because paragraph 10 is an exception for items measured at fair value. We recommend that the discussion in the basis for conclusions clarify that point.

Non-Cash-Collateral Receivables and Payables: Besides cash, there are other generally-accepted forms of collateral, for instance, sovereign debt securities, high-quality corporate bonds, and gold. For example, a derivatives dealer may receive a US treasury security instead of cash as collateral. In most cases, that derivatives dealer will receive the right to pledge or sell that collateral. Statement 140 specifies that non-cash financial assets received as collateral not be recognized until they are sold by the derivatives dealer (at which time cash and a corresponding obligation to return the non-cash collateral are recognized). That corresponding obligation to return non-cash collateral is carried at fair value under SOP 01-6. From an economic standpoint, the derivatives dealer is in the same position as if it had received cash (that is, it has received control of a financial asset that it can sell and it has an obligation to return that financial asset). Because it is in the same economic position, we think that the obligation to return the non-cash collateral, which is measured at fair value, also should qualify for netting against the corresponding derivatives position.

In our opinion, dividing the world of financial-asset-based collateral into cash and non-cash is somewhat arbitrary. Cash is one fungible type of financial instrument; US treasury and other securities are another fungible type of financial instrument. Therefore, we ask that in its redeliberations the Board consider whether the FSP's scope should be expanded to permit netting in the instance described in the preceding paragraph. If the Board chooses not to consider this type of arrangement or chooses to prohibit netting in that case, we recommend that the FSP explicitly state the reasons for so doing in the basis for conclusions.

Cash-Collateral Disclosures: We are concerned about the placement of what appears to be a general cash-collateral disclosure requirement in an FSP related to FIN 39. A disclosure requirement to disclose all cash-collateral receivables and payables whether or not they are netted under FIN 39 should be incorporated into Statement 140, which is its logical location. Or, perhaps, if the intent is to identify all such collateral related to derivatives only, then the Board should consider whether Statement 133 is a more appropriate place especially in light of the current project on derivatives disclosures. Given that the FSP deals with entities that choose to net cash collateral amounts carried at fair value against derivative positions, then we think the FSP's disclosure requirements should be related strictly to the amounts that are netted. For comparability purposes, that is the only number that a financial statement user would need. If the Board has discussed the proposed disclosures with user groups, we would greatly appreciate if the basis for conclusions could include the relevant conclusions.

We very much appreciate the opportunity to comment. We would be happy to meet with you to discuss our comments. Please do not hesitate to contact John Gallagher at 203-719-4212 or Ralph Odermatt +41 44 236-8810.

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