



September 14, 2007

Mr. Russell G. Golden
Director of Technical Application & Implementation Activities
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

File Reference: Proposed FSP FAS 140-d, *Accounting for Transfers of Financial Assets and Repurchase Financing Transactions* (the “proposed FSP”)

Dear Mr. Golden:

Morgan Stanley appreciates the opportunity to provide comments in response to the proposed FSP. We have contributed to the development of the letter dated September 14, 2007 submitted jointly by the Securities Industry and Financial Markets Association (“SIFMA”) and the American Securitization Forum (“ASF”), and we endorse the comments in that letter. We do not support the proposed FSP for the reasons that follow.

- **Scope:** We are concerned that the proposed FSP would apply to a wider range of financing transactions than contemplated by the FASB. Potentially, it could be viewed as encompassing any collateralized financing arrangement. To the extent that the scope of the proposed FSP extends beyond traditional repurchase agreements, this would increase the number of operational issues. Therefore, we recommend that the scope of the proposed FSP be clarified.
- **Operationality:** We do not believe that reporting entities will be able to implement the proposed FSP by the proposed effective date.
- **Paragraph 7 criteria:** We note that two transactions can have valid and distinct business or economic purposes and yet still be required to be evaluated as a linked transaction based on the criteria in paragraph 7 of the proposed FSP. In addition, we disagree with the provisions of paragraph 7(c) that restrict de-linked analysis to initial transfers and repurchase agreements involving financial assets priced using Level 1 inputs. Lastly, we believe that the criteria in paragraph 7 is overly rules-based and should be framed as indicators to be considered in the aggregate by preparers rather than as a list of requirements that must all be met.

In summary, we believe the combination of the lack of clarity regarding the scope of financing transactions involved, the requirement of a linkage analysis of financing transactions that occur after an initial transfer date, the difficulty of identifying

“substantially the same assets” with respect to linkage and the lack of sufficient time to implement the proposed guidance makes the proposed FSP unworkable. We believe it is necessary to address these highlighted issues before issuing final guidance.

Below are our comments in further detail.

Scope

While the proposed FSP states that it “...addresses the accounting for...a repurchase financing”, Footnote 2 states that “[t]he legal form of the repurchase financing may vary; however, the substance of the transaction should be considered to determine if a repurchase financing exists.” The combination of these two statements leaves us uncertain as to the scope of the proposed FSP. For example, would the scope of the proposed FSP include all situations in which a transfer of a financial asset is financed by the initial transferor and that financing is collateralized by the initial transferred security? It appears that such financing transactions extend beyond repurchase agreements. In addition, it is unclear to us what types of transactions are considered the “...other financing transactions that are outside the scope of this FSP”, as discussed in paragraph B1 of the proposed FSP. Therefore, we recommend clarifying that the proposed FSP applies solely to financing transactions documented as repurchase agreements.

Operationality

One of the most troubling aspects of the proposed FSP is the requirement to evaluate not only repurchase transactions entered into on the same date as the initial transfer, but also repurchase financings that “...may occur at a later date”. Presumably, this would require a reporting entity to design systems to identify all securities upon transfer so that they would be “flagged” any time a repurchase financing was entered into with the same counterparty where the referenced security is provided as collateral. These types of system developments would be necessary as one area of a reporting entity may transfer an asset while another area may enter into a repurchase financing with no intention or knowledge of linkage except the use of the same asset as collateral. We currently do not have these types of system capabilities, and do not believe we would be able to design the required systems by December 1, 2007, the anticipated effective date of the proposed FSP for Morgan Stanley. In addition, it is unclear to us when and if the requirement to evaluate for linkage would be extinguished or whether it would extend indefinitely.

While we do note the guidance in paragraph 55 of FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* (“FAS 140”) that requires reassessment for changes that result in the transferor regaining control of assets previously accounted for as sold, we believe that repurchase transactions occurring at a later date are entered into in the ordinary course of business as separate transactions and are not entered into with the objective of regaining control over a previously transferred financial asset. Therefore, we believe one indicator to be considered when evaluating transactions for potential linkage should be whether they were entered into “contemporaneously and in contemplation of one another” (DIG Issue K-1).

We also note that the proposed FSP requires a linkage analysis when an initial transferor enters into a repurchase agreement related to a previously transferred asset (or substantially the same asset). It is not clear to us how a reporting entity would be able to design systems to identify “substantially the same” assets with respect to linkage.

While our primary concern with respect to operationality is the process of identifying transactions that require linkage analysis, we also note the impracticality of performing the required analysis (as described in paragraph 7 of the proposed FSP) for all identified transactions with the same counterparty.

Paragraph 7 criteria

It is clear to us that the practical result of the proposed paragraph 7 criteria is that many transactions with valid and distinct business or economic purposes will be required to be linked for purposes of applying FAS 140. For example, with respect to less liquid securities such as subordinated interests in securitizations, it is typical for a transferor who has structured the securitization to offer financing terms on the securities that it has sold to a transferee that reflect the transferor’s familiarity with the securities pledged as collateral. The valid and distinct business and economic purposes for such financing transactions is that the initial transferor is seeking to minimize credit risk for risk management purposes. The initial transferor simply has a better understanding of the securities, and is therefore better able to value the securities pledged as collateral and monitor credit risk. Thus, the purpose of such transactions is not to “circumvent an accounting standard or solely to achieve a specific accounting result.” Nevertheless, we understand that despite this valid purpose, such financing arrangements would likely not meet the criteria of paragraph 7 (c), since the initial transferred asset does not have a quoted price in an active market (Level 1 inputs), and the terms of the repurchase financing may not be executed at market rates.

Additionally, we disagree with the requirement in paragraph 7(c) that “[t]he financial asset subject to the initial transfer and repurchase financing [must have] a quoted price in an active market (Level 1 inputs as defined in FASB Statement No. 157, *Fair Value Measurements*).” We note the Board’s conclusion, as discussed in paragraph A8 of the proposed FSP, that “...marketability is important because it provides evidence that the decision to execute the repurchase financing with the same counterparty is not based solely on the uniqueness of the asset.” However, we do not believe that lack of marketability of a transferred financial asset necessarily implies that an initial transferee is compelled to finance its position with the initial transferor. Accordingly, we recommend deleting the financial asset marketability requirement, as discussed in the first sentence of paragraph 7(c). However, if the Board decides to keep a marketability requirement, we would recommend deleting the requirement that a financial asset be priced using Level 1 inputs such that the marketability requirement would be met so long as the financial asset is actively traded in the market.

Lastly, we believe that the paragraph 7 criteria should be posited as a list of indicators to be considered in the aggregate by a reporting entity in determining whether two transactions should be linked for purposes of evaluation under FAS 140. We believe that this is a much more principles-based approach that would better allow preparers to report the substance of its transactions. It would also be less likely than the proposed rules-based approach to

result in unintended accounting results that will need to be remedied by further accounting guidance.

Effective date and transition

Should the staff and Board decide to proceed with the proposed FSP as currently written, we suggest that the guidance be applied prospectively to new transactions, and that the guidance should not be required to be applied to existing repurchase agreements given cost-benefit considerations. Also, the proposed effective date would not provide sufficient time to implement this guidance. Reporting entities would need significantly more time to make necessary system changes. Thus, we recommend amending the proposed FSP to make it effective for fiscal years beginning after November 15, 2008.

Other

Paragraph 9 discusses the accounting for a situation in which transactions do not meet all the criteria in paragraph 7 and fail to meet the sale criteria of FAS 140. As discussed in paragraph 9, in such a situation "...the linked transaction shall be accounted for based on the economics of the combined transactions, which generally represent a forward contract." We believe it would be very helpful if the proposed FSP were to provide an example detailing the accounting for such a transaction. In discussions within our firm and with other industry participants, we noted there was some uncertainty as to the accounting for such situations.

In addition, we suggest clarifying in the same paragraph the accounting for a situation in which not all the criteria of paragraph 7 are met, yet the transaction still qualifies for sale treatment under FAS 140. That is, within the "linked" transaction the initial transfer would be accounted for as a sale, and the financing transaction would be accounted for as a financing transaction. While we would not expect this to be a common circumstance, we understand that there are possibly some situations in which this may occur.

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Again, we thank you for the opportunity to provide comments related to the proposed FSP. Please contact Staci Lublin at (212) 276-2456, Esther Mills at (212) 276-4364 or me at (212) 276-7716 with any questions or comments.

Sincerely,

/s/ Greg Sigrist
Managing Director