



Credit Union National Association

601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | PHONE: 202-638-5777 | FAX: 202-638-7734

cuna.org



\* F S P F I N 4 8 B \*  
LETTER OF COMMENT NO. 42

Filed via director@fasb.org

January 18, 2008

Mr. Russell G. Golden  
Director of Technical Application and Implementation Activities  
Financial Accounting Standards Board  
401 Merritt 7, PO Box 5116  
Norwalk, CT 06856-5166

RE: Proposed FSP FIN-48-b

Dear Mr. Golden:

On behalf of the Credit Union National Association, we appreciate the opportunity to comment on the Financial Accounting Standards Board's proposal to defer the effective date of FIN 48. FASB's FIN 48 is especially applicable to unrelated business income taxation (UBIT) for state chartered credit unions and addresses how to recognize such a potential tax when the amount of tax liability is uncertain. It is still unclear as to exactly what activities are subject to UBIT which adds even greater uncertainty to any amount of liability. By way of background, CUNA represents approximately 90 percent of our nation's 8,400 state and federal credit unions, which serve close to 87 million members. This letter was developed under the auspices of CUNA's Accounting Task Force, which I have chaired since its inception in 2003.

During my tenure with the Financial Accounting Standards Advisory Council and the FASB's Small Business Advisory Committee, FASB has made great progress in recognizing the impact of new standards on smaller entities. This includes providing greater clarity and interpretation of financial reporting changes, transition date deferrals, and limited scope exceptions. We applaud the efforts of the Private Company Financial Reporting Committee (PCFRC) in seeking a deferral for nonpublic entities.

Earlier this month, I was contacted by the Private Company Financial Reporting Committee to help encourage state chartered credit unions to participate in their survey on how FIN 48 would apply in situations in which the UBIT tax liability has



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not fully been determined. CUNA publicized the survey in its electronic newsletter, News Now, and encouraged affected credit unions nationwide to respond to the survey by the January 31st deadline. CUNA was pleased to take this step to assist the PCFRC and FASB in its understanding of the application of FIN 48 to state credit union's potential UBIT liability.

In light of the FASB's own questions regarding the application of FIN 48 as well as the uncertainty of credit unions and accounting professionals, we strongly support the proposed delay in the effective date of FIN 48.

In addition, credit unions are concerned that the qualifications for a deferral in FSP 48-b were not very clear. For example, FSP 48-b assumes the adoption of FIN 48 if previously prepared GAAP financial statements have been provided to third parties. We believe FASB has not provided sufficient guidance regarding which entities are included in the term, "third parties." For example, we do not believe that if a credit union has provided required statements that conform to GAAP to its regulator that it should, as a result, be subject to FIN 48.

In May 2007, the FASB further clarified its position on FIN 48 by issuing FSP FIN 48-1 Definition of Settlement in FASB Interpretation No. 48. The effective date and transition of this position states:

#### Effective Date and Transition

9. The guidance in this FSP shall be applied upon the initial adoption of Interpretation 48. An enterprise that applied Interpretation 48 in a manner consistent with the provisions of this FSP would continue to apply the provisions in this FSP from the date of initial adoption of Interpretation 48. However, an enterprise that did not apply Interpretation 48 in a manner consistent with the provisions of this FSP is required to retrospectively apply the provisions in this FSP to the date of the initial adoption of Interpretation 48.

We believe that the first sentence of this paragraph calls into question whether or not FIN 48 has already been adopted. In December, the news of a deferral for nonpublic entities was widely distributed and as a result, many credit unions postponed a decision for adoption. Further, the only reference to FIN 48 in FSP 48-b is to early adoption, hardly a desirable option for credit unions.

On January 8, 2008, the FASB issued a press release which included the following:

The Board proposed a deferral in response to a recommendation of the Private Company Financial Reporting Committee (PCFRC), which said many nonpublic entities, in particular nonpublic pass-through entities, required more time to study

and apply the provisions of Interpretation 48. Nonpublic entities that have already adopted the provisions of Interpretation 48 would not be eligible for the deferral. The amendments contained in the proposed FSP clarify that the provisions of Interpretation 48 have been adopted if the nonpublic entity has issued financial information prepared in accordance with U.S. GAAP to third parties.

We believe that this statement and subsequent events since FIN 48 was first issued have provided less clarity, and in fact, created confusion for many credit unions.

In light of our many concerns, we strongly support deferral of FIN 48 for all nonpublic entities, including for credit unions that may have shared financial statements with their regulator, provided that FIN 48 has not been previously adopted.

We note that the comment period on this issue was exceedingly short but would welcome the opportunity to provide additional information regarding the importance of delaying FIN 48. Please do not hesitate to contact me if more information on this issue would be useful to you.

Sincerely,

Scott M. Waite  
Senior Vice President - Chief Financial Officer  
Patelco Credit Union  
and Chairman,  
Credit Union National Association's  
Accounting Task Force