

## Richard D. Levy Executive Vice President & Controller

MAC A0163-039 343 Sansome Street, 3rd Floor San Francisco, CA 94104 415 222-3119 415 975-6871 Fax richard.d.levy@wellsfargo.com

September 19, 2007

Via E-mail

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 Re: Financial Assets and Repurchase Financing Transactions

## Dear Mr. Golden:

Wells Fargo & Company (Wells Fargo) is a diversified financial services company with over \$539 billion in assets providing banking, insurance, investments, mortgage, and consumer finance services. We appreciate the opportunity to respond to the Board's solicitation for comments related to the proposed FASB Staff Position (FSP) on repurchase financing transactions.

We support the overall objective and principle of this FSP. Unfortunately, the proposed FSP is not operational. In order to assist the FASB in meeting the objective of this FSP, we have answered your questions below, with specific focus on the operational consequences that the proposed FSP will have on companies such as Wells Fargo. We hope that our comments are helpful in moving this FSP forward.

1. Are the criteria in paragraph 7 of this proposed FSP operational and do they appropriately identify those transactions that should be accounted for separately? If you disagree, please provide example transactions that do not meet the criteria but should be accounted for separately or that do meet the criteria but should not be accounted for separately. Explain the business purpose (or lack thereof) of the example transactions provided.

A critical reality that the FSP needs to acknowledge is that many financial institutions have different business units that operate independently from each other and may unknowingly execute different steps of the transactions in the scope of the FSP as currently drafted. Unless a

Technical Director Financial Accounting Standards Board September 19, 2007 Page 2

series of transactions are identified as being integrally linked together as a component of a repurchase financing transaction, this FSP does not work. The independent business units will unknowingly execute different aspects of what the FSP characterizes as repurchase financing transactions involving the counterparty with the same or similar financial asset. For example, a broker/dealer business unit, which operates on its own platform, may sell a financial asset to a customer. Subsequent to this transaction, a lending business unit may enter into a transaction with the same customer utilizing the same or similar financial asset as collateral without knowledge of the original sale. The lending unit will most likely be competing for this business with independent third party lending entities that will not be burdened with the rules contemplated by the proposed FSP. Under the guidance of the proposed FSP, the lending unit's actions have triggered the presumption that the two transactions are linked, even though a) the two transactions are unrelated to each other and were not entered in contemplation with each other, b) the two transactions do not reflect an implied commitment, c) the different business units have different valid business or economic purpose for transacting with the buyer, d) there is likely a lapse in time between the two transactions, and e) the accounting for the same transaction results in a different answer if the lender is independent or related to the original broker/dealer.

Companies do not have systems that track the securities that they sell from one business line that are subsequently used by the purchaser as collateral in a financing transaction from a different business line in the company. Current systems environments can not comply with this FSP, nor is making extensive and costly system changes to comply viewed as a priority when companies review their limited technology spending budgets.

We have additional conceptual concerns with the proposed FSP that the FASB should address:

- Time Lapse Paragraph 4 of the proposed FSP assumes that the lapse of time between the initial transfer and the repurchase agreement is not relevant when determining if the transaction is a repurchase financing and is within the scope of this FSP. We view this assumption as being flawed in that it will require 'look-back' or revisionist accounting. We believe that the greater the lapse in time between the date of the initial transfer and the date of the repurchase agreement, the more evident it is that a separate valid business or economic purpose exists and that control has not been regained by the initial transferor.
- Control The proposed FSP focuses on physical control rather than the economic control of the regained assets. Although physical control of the collateral is regained in the vast majority of repurchase financing transactions, the overall economic control of the collateral has not been regained because:
  - The initial transferor can not permanently transfer or sell the collateral to anyone else;
  - o The initial transferor must return the collateral to the initial transferee; and,
  - O The initial transferee earns the interest income and bears the risk of the market fluctuations while the collateral is held by the initial transferor.

Technical Director Financial Accounting Standards Board September 19, 2007 Page 3

Economic control is more important in repurchase financing transactions and the above facts demonstrate that economic control has not been regained by the initial transferor.

## 2. What costs would be incurred to implement this proposed FSP?

Lenders with security broker/dealer operations will have to incur the systems and operational related burdens of this unfunded mandate versus other lenders, creating an un-level economic playing field.

3. What procedures, controls, and systems are required to implement this proposed FSP? Can such procedures, controls, and systems be in place by the proposed effective date—the beginning of the first fiscal year after November 15, 2007? If not, when can the procedures, controls, and systems be in place to implement this proposed FSP?

Significant system and process changes will be necessary to comply with the proposed FSP. Because these changes add no economic or business value to a company, any system changes would be given very low to no priority, particularly when system budgets are already tight. The systems or operational changes required to implement the proposed FSP are viewed by us as unfunded mandates. To give the FASB an appreciation of the significant undertaking that complying with this mandate would require, the following process and system changes would be necessary:

- Front end processes Lending systems will need to be enhanced to track securities used as collateral at the CUSIP level. The ability to interface all securities sales information from their respective operating systems with our various lending systems has never been accomplished, let alone "sized" to determine feasibility and costs. Lenders, at the time of the repurchase transaction, will need to utilize such a system (which does not currently exist in the real world), so that the proposed collateral can be identified as initially purchased from or sold to the counterparty of the repurchase agreement transaction. Additionally, a significant amount of time and effort will be required to train lenders and sales personnel on the new processes necessary to execute repurchase financing transaction while meeting the requirements of this FSP.
- Back end processing systems, including stock records Brokers and dealers use stock records as sub-ledgers and to track the securities owned by an entity and those securities owned by others. Stock records are a critical tool to broker and dealer's books and records and are required by securities regulators. Additionally, the stock records drive business processing that are utilized in, customer reporting, income payments and preparing a company's financial statements. This FSP adds a new level of complexity to the use of stock records that entities and the securities regulators will need to carefully consider.
- General ledger interfaces and entries Changes will need to be made to the posting of these transactions to the general ledger. Additionally, systems may need to be developed to produce the necessary accounting entries for forward contracts.
- Corporate-wide databases Expensive corporate databases will need to be created that add no value to an enterprise's business activities in order to share information between

Technical Director Financial Accounting Standards Board September 19, 2007 Page 4

its' business lines that have historically operated independently of each other. Databases will be critical when developing corporate wide preventative and detective controls.

The above process and system changes will not be achieved by the beginning of the first fiscal year after November 15, 2007, particularly given the fact that none of these system changes have been planned for to-date. In fact, even if the FASB adopts this FSP, we do not believe the extensive and costly required changes will ever meet the company's threshold for funding. Therefore, we believe that the only feasible way to implement this proposed FSP would be to establish manual month end processes and procedures to assess whether securities transferred to the initial transferee have been subsequently obtained as collateral. These back end processes and procedures would utilize "sneaker power" and would include only detective controls, not preventative controls. In the current Sarbanes-Oxley 404 environment, using only detective controls is not conducive to a sound control environment. As such, we believe that the FASB should extensively revise any FSP that is issued on repurchase financings transactions.

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We appreciate the opportunity to comment on the questions contained in the Board's Invitation to Comment. I offer my continued support to assist the Staff with this topic. If you have any questions, please contact me at (415) 222-3119.

Sincerely,

/s/ Richard D. Levy

Richard D. Levy
Executive Vice President & Controller