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December 13, 2010

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

File Reference No. 1880-100

Re: Proposed Accounting Standards Update, Clarifications to Accounting for Troubled Debt Restructurings by Creditors

Dear Mr. Golden:

Deloitte & Touche LLP is pleased to comment on the FASB's proposed Accounting Standards Update (ASU) *Clarifications to Accounting for Troubled Debt Restructurings by Creditors*.

Although we believe the Board's top priorities should be its convergence projects with the IASB, we also understand that the Board may be compelled from time to time to address practice issues unique to U.S. GAAP. While we support the Board's short-term effort to improve the creditor's identification of a troubled debt restructuring (TDR) under U.S. GAAP, we encourage the Board to also consider whether the accounting for TDRs can be converged under U.S. GAAP and IFRSs as part of the project on accounting for financial instruments. Converging the requirements related to modifications or restructurings (TDRs) of financial instruments may further improve existing implementation guidance for identifying TDRs and the related measurement and disclosure implications.

Regarding the proposed ASU, we support the Board's objective to provide creditors with additional guidance on determining whether a restructuring of a receivable results in a TDR. Overall, we think that the proposed amendments to ASC 310<sup>1</sup> would result in more consistent identification of TDRs among entities. Accordingly, we generally support the issuance of the proposed ASU. However, we believe that the following issues warrant additional consideration: (1) concession **and** financial difficulty, (2) modifications resulting in insignificant delays in contractual cash flows, and (3) transition provisions. These issues are discussed in more detail below.

In Appendix A, we respond to the questions the FASB asked in the proposed ASU. Appendix B contains our additional comments on specific paragraphs from the proposed ASU.

### **Concession and Financial Difficulty**

ASC 310-40-15-5 establishes the basic principles for the TDR analysis and describes a two-pronged test for determining whether a restructuring constitutes a TDR. The two prongs are that (1) the creditor grants a concession to the debtor **and** (2) the debtor is experiencing

<sup>&</sup>lt;sup>1</sup> FASB Accounting Standards Codification Topic 310, *Receivables*.

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financial difficulty. For an entity to conclude that a restructuring is a TDR, both of these conditions must be met.

Because the TDR analysis is a two-pronged test, we encourage the Board to clarify ASC 310-40-15-8A, 15-8B, and 15-9 to indicate that financial difficulty on the part of the debtor is also required before an entity can conclude that a restructuring is a TDR. As currently proposed, ASC 310-40-15-8A (for example) could be interpreted as requiring an entity to automatically conclude that a TDR has occurred even though the debtor is not experiencing financial difficulty. We agree that the inability to refinance debt at a market rate is a strong indicator of a debtor's financial difficulty (see ASC 310-40-55-10A(f)<sup>2</sup>); however, we believe that an entity should consider this indicator along with other evidence when determining whether the debtor is experiencing financial difficulty.

We also suggest clarifying that the absence of a market rate to compare to is a strong indicator that a concession has occurred rather than a determinative indicator. There might be circumstances where the "local" market is very limited. In that case some might interpret ASC 310-40-15-8A to require the creditor to conclude that a concession occurred without further consideration. We also encourage the Board to provide further discussion in the Basis for Conclusions on this matter so that constituents have a better understanding of the concern that the Board intends to address with this change.

## Modifications Resulting in Insignificant Delays in Contractual Cash Flows

The proposed ASU states that a "restructuring that results in an insignificant delay in contractual cash flows **may** still be considered a [TDR and thus the insignificant delay] should be considered along with other terms of a restructuring to determine whether a [TDR] exists."

Conceptually, we question whether an insignificant delay should be viewed differently depending on whether a creditor is performing a TDR analysis or an impairment analysis.<sup>3</sup> A potential unintended consequence of this may be that a creditor might conclude that the insignificant delay results in a TDR for disclosure purposes but is not relevant for impairment measurement purposes. This disconnect may lead some to question the objective of the TDR analysis — specifically, whether the objective is to identify (1) loans that are impaired or (2) loans that have a greater potential to become impaired in the future.

If the objective of the creditor's TDR analysis is to identify loans that are impaired (objective (1) above), we recommend clarifying that an insignificant delay does not result in a concession. The Board should also consider clarifying how it believes an entity should analyze whether there has been an insignificant delay (e.g., through examples or indicators). The Board could include an example illustrating how a creditor's policy to temporarily grant relief from making otherwise contractually due principal and interest payments on an amortizing loan would be considered an insignificant delay. The Board could also further illustrate whether the entity should reach the same conclusion that the delay is insignificant when the delay relates to a large balloon payment that would otherwise be due.

<sup>&</sup>lt;sup>2</sup> ASC 310-40-55-10A(f) states that a debtor may be experiencing financial difficulty if it cannot obtain funds from other creditors at an effective interest rate equal to the market interest rate of what nontroubled debtors would receive for similar debt.

<sup>&</sup>lt;sup>3</sup> When assessing whether an asset is impaired, a creditor determines whether it will collect all contractual amounts due according to the asset's contractual terms. ASC 310-10-35-17 states that an "insignificant delay or insignificant shortfall in amount of payments" would not require a creditor to conclude that it will not receive all amounts due according to the contractual terms of the loan.

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If the Board believes that an insignificant delay is (or can contribute to) a concession (objective (2) above), additional clarification of the proposed language in paragraph 310-40-55-10C is needed. Absent additional clarification, we are concerned that the guidance in this paragraph may be difficult to apply in practice because it is unclear whether a restructuring that only involves an insignificant delay (such as a temporary forbearance) is a concession. If an insignificant delay by itself is not a concession, the Board should include an example that illustrates what "other terms of a restructuring" would contribute to a conclusion that a concession has occurred.

#### **Transition Provisions**

We do not agree with the proposed transition provisions. TDR identification is inherently subjective and necessitates exercise of significant judgment on the basis of facts that exist at the time of a modification or restructuring. Entities that apply guidance retrospectively are likely to reach different conclusions than they would have at the time of the modification. We recommend prospective transition for both (a) TDR identification and disclosure and (b) impairment measurement.

At a minimum the Board should align the transition provisions for (a) identification and disclosures about troubled debt restructurings and (b) the related impairment effect from switching impairment methods. For example, if the Board is going to require retrospective application for disclosure (though we do not recommend this), then it should also require retrospective application for measurement of impairment. If the disclosures and the impairment measurement effect are not aligned, there is a potential for inaccurate statistics or other metrics being derived from the financial statements (e.g., when changes in disclosed impaired loan balances are compared with impairment expense for a given period).

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We appreciate the opportunity to comment on the proposed ASU. If you have any questions concerning our comments, please contact Adrian Mills at (203) 761-3208.

Yours truly,

Deloitte & Touche LLP

cc: Bob Uhl

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# APPENDIX A Deloitte & Touche LLP Responses to Questions

Question 1: Would precluding creditors from applying the guidance in paragraph 470-60-55-10, create any operational challenges for determining whether a troubled debt restructuring exists? If yes, please explain why.

We agree with the Board's decision to preclude creditors from applying the borrower-related guidance in ASC 470-60-55-10 to determine whether a TDR exists.

ASC 310-40-15-3 can be interpreted to indicate that the only circumstance in which the tests performed by the debtor and creditor need not be symmetrical is "when the debtor's carrying amount and the creditor's recorded investment differ." ASC 310-40-15-3 adds that a "debtor may have a [TDR] under Subtopic 470-60 even though the related creditor does not have a [TDR] under the same tests in [ASC 310-40]." A situation in which a creditor cannot apply the guidance in ASC 470-60-55-10 (the effective borrowing rate test) but the debtor can apply that guidance is also a circumstance in which the tests are not symmetrical. This additional asymmetry could cause the creditor to conclude that it has a TDR even though the debtor does not. That is, the creditor would conclude a concession has been granted but the debtor would not. We recommend that the Board clarify ASC 310-40-15-3 by taking this point into account

Question 2: Do you believe that the proposed changes to the guidance for determining whether a troubled debt restructuring exists would result in a more consistent application of troubled debt restructuring guidance? If not, please explain why.

We agree that the clarifications proposed by the Board will help creditors determine whether a modification or restructuring constitutes a TDR. However, please see our concerns and other comments on this topic in the body and Appendix B of this letter.

Question 3: The Board decided that a creditor may consider that a debtor is experiencing financial difficulty when payment default is considered to be "probable in the foreseeable future." Do you believe that this is an appropriate threshold for such an assessment? If not, please explain why.

We agree with the Board's decision. We also suggest that the Board revise the guidance on a debtor's assessment of whether it is experiencing financial difficulty<sup>4</sup> to conform to the proposed ASU's amendments. For example, the proposed ASU states that a creditor may determine that a debtor is experiencing financial difficulty if payment default is considered to be "probable in the foreseeable future." We believe that this proposed amendment should also be reflected in the guidance a debtor uses to determine whether it is experiencing financial difficulty.

Question 4: Are the proposed transition and effective date provisions operational? If not, please explain why.

<sup>&</sup>lt;sup>4</sup> See FASB Accounting Standards Codification Topic 470-60, *Debt — Troubled Debt Restructurings by Debtors*.

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Please see our comments on this topic in the body and Appendix B of this letter.

Question 5: Should the transition and effective date be different for nonpublic entities versus public entities? If so, please explain why.

We believe that the transition and effective date should be the same for all entities.

Question 6: Should early adoption of the proposed amendments in this Update be permitted? If so, please explain why.

Yes, we believe that early adoption of the proposed ASU's amendments should be permitted because it will provide investors with additional decision-useful information regarding the credit quality of modifications deemed to be TDRs under the proposed ASU.

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# APPENDIX B Deloitte & Touche LLP Additional Comments on Specific Paragraphs

# ASC 310-40-55-10A

The Board should align the introductory sentence of ASC 310-40-55-10A with that of ASC 470-60-55-8. ASC 310-40-55-10A could be interpreted to require that all (or several of) the indicators are present before concluding that the debtor is experiencing financial difficulty. ASC 470-60-55-8 indicates that "all of the following factors are indicators", which implies that any one of the indicators could lead to a conclusion that the debtor is experiencing financial difficulty.

#### ASC 310-40-55-10A(e)

ASC 310-40-55-10A(e) states that when assessing a debtor's financial difficulty, the creditor should only consider the debtor's **current business capabilities** to service the debt in accordance with its contractual terms. We recommend that the Board amend ASC 310-40-55-10A(e) to clarify whether the potential sale of assets that the debtor does not intend to sell can be considered part of the current business capabilities.

### ASC 310-40-65-1

Upon adopting the final standard, an entity is required to retrospectively determine whether modifications that were not previously considered TDRs and that have occurred since the beginning of the earliest period presented would now be considered TDRs. We understand that in situations in which a "prior-period TDR" is identified, the intended interaction of the transition provisions of the proposed ASU and ASU 2010-20<sup>5</sup> is that the entity would not be required to apply the disclosure provisions of ASU 2010-20 to prior-period TDRs. We encourage the Board to make this intention explicit.

<sup>&</sup>lt;sup>5</sup> FASB Accounting Standards Update No. 2010-20, *Disclosures About the Credit Quality of Financing Receivables and the Allowance for Credit Losses*.