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June 17, 2013

Technical Director
Financial Accounting Standards Board
Via email: director@fasb.org
File Reference No. EITF-13B, Investments –Equity Method and Joint Ventures (Topic 323)

Dear Technical Director:

BOK Financial Corporation is a \$28 billion regional financial institution that offers full-service commercial banking, consumer banking and wealth management services in Oklahoma, Texas, New Mexico, Arizona, Colorado, Arkansas, Kansas and Missouri. We appreciate the opportunity to provide comments on this proposed accounting standards update (“Update”).

Effective Yield Method

We believe that the effective yield method of accounting for qualifying investments in affordable housing projects (LIHTC’s) as defined in the Update will provide financial statement users with more decision-useful information on the financial returns of these investments. Currently, financial statement users cannot easily determine the performance of these investments. The tax credits and tax depreciation benefits, which are both the primary source of return on investment, reduce income tax expense. Performance losses, which primarily serve to reduce the amount invested, are included in operating income. This separation is inconsistent with how these investments are evaluated by management both at the time of the investment decision and over the life of the investment.

In addition to providing more decision-useful information to investors, we believe the effective yield method of accounting is supported by the economic substance of these investments. FASB’s exposure draft issued February 14, 2013 Financial Instruments Overall (Subtopic 825-10) Recognition and Measurement of Financial Assets and Financial Liabilities (Exposure Draft) definition of a **debt instrument** could arguably be applied to LIHTC’s:

A receivable or payable that represents a contractual right to receive cash (or other consideration) or a contractual obligation to pay cash (or other consideration) on fixed or determinable dates, whether or not there is any stated provision for interest.

The economic substance of the substantive cash flows of a LIHTC investment appears to meet this definition. It is a receivable based on a contract to receive cash in the form of tax credits and tax deductions on operating losses (other consideration) on fixed or determinable dates. There is no provision for stated interest.

Although LIHTC’s arguably are similar to debt instruments, they are equity investments for both legal and tax purposes. Equity status for tax purposes is important or the investor will not receive the credits.



We do not believe that the Update as drafted inhibits the equity status for tax purposes for the following reasons:

- The Update clearly requires that to use the effective yield method, the investor must be a limited liability investor for BOTH legal AND TAX purposes.
- The requirements include that “substantially all” of the projected benefits are generated from the tax credits and the operating loss tax benefits. The term “substantially all” in accounting guidance is generally interpreted to be 90% or more. Therefore, the Board recognizes that other cash flows and residual benefits are also a part of these investments.
- Nowhere in the guidance does the Update discuss that there is no risk in these investments or that the limited liability member does not participate in the risks and rewards of ownership as required under tax law. Investors in LIHTC remain exposed to loss of the amount invested from performance failures and, at least nominally, retain an interest in any residual value in the underlying project.

Financial Statement Presentation and Subsequent Measurement

Although we agree with the overall use of the effective yield method, we do not believe that the net income from these investments should flow through income tax expense. Rather, the net effective yield should flow through investment income for the following reasons:

- These investments are evaluated on their rate of return on the total cash flows of the investment which include tax credits, tax benefits on operating losses, and residual benefits. Instead of receiving all of the cash flows from the project, a substantial portion of the return is in the form of a government incentive.
- The interest expense or the cost of carrying these investments which reduces the yield on investment will remain in pre-tax operating income.
- The FASB is allowing an exception to the equity method of accounting which is consistent with the accounting for a debt instruments which is reported in investment income.
- The presentation will be less confusing to investors who are familiar with evaluating such investments.

Therefore, we believe that reporting the net investment return as investment income versus a component of tax expense is the superior presentation.

Once the investment qualifies for the effective yield method based on projections at the time of purchase, in our opinion, it should always be accounted for under that method. The investment should be subject to regular impairment assessment based on performance of the underlying project, the investor’s ability to use the tax credits and losses to generate cash flows and other relevant factors. Accounting impairment necessary should also not flow through tax expense but should be a component of investment income in the same manner as any other-than-temporary impairment.

We do not believe the cost method of accounting for equity investments should be allowed as it will result in inconsistent treatment of these investments for financial reporting and inconsistent with the principle that the FASB is creating. Amortized cost accounting for debt instruments should be allowed if the investment meets the appropriate principles.



We believe that LIHTC investments should be subject to existing disclosure requirements for debt instruments. No further disclosures would be necessary to provide investors with decision-useful information. However, if it is determined not to consider LIHTC investments as in substance debt instruments, we support the proposed disclosures.

Expansion to Other Type of Investments

Although we generally support FASB's consideration in expanding the scope of the Update to include investments in other types of investments that provide tax benefits that meet the requirements under the Update (other than the affordable housing investor requirement), we are concerned with expanding these investments to other types of tax credit investments without further evaluation. These investments do have different risks and rewards of ownership than LIHTC's although many will still meet the requirements of the Update. If the Board feels significant time is needed for such evaluation, we recommend proceeding with the Update with the current scope.

Adoption Effective Date and Conclusion

We support the retrospective transition method due to the time needed to comply as well as early adoption.

Thank you for the opportunity to comment on this Update. Please feel free to contact John Morrow at jmorrow@bokf.com or Shelly Cleveland at scleveland@bokf.com if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "John Morrow".

John Morrow
Senior Vice-President, Chief Accounting Officer

A handwritten signature in black ink that reads "Shelly Cleveland".

Shelly Cleveland
Senior Vice-President, Tax Director