

## Vavrinek, Trine, Day & Co., LLP Certified Public Accountants & Consultants

## VALUE THE DIFFERENCE

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

Re: Proposed Accounting Standards Update, Accounting for Financial Instruments and Revisions to the Accounting for Derivative Instruments and Hedging Activities (File references 1810-100)

Dear Mr. Golden:

We appreciate the opportunity to comment on the proposed Accounting Standards Update, *Accounting for Financial Instruments, Derivative Instruments and Hedging Activities* ("Proposed ASU").

We had several of our financial institution partners attend the recent AICPA Banking Conference in Washington D.C., at which Leslie Seidman made a presentation that included a discussion of the Proposed ASU. One of our partners submitted a question regarding the public vs. nonpublic entity definition in the Proposed ASU and Ms. Seidman's response indicated surprise that the issue had not arisen before (on previous exposure drafts) and invited firms to formally comment. This comment letter will focus only on this particular issue.

The proposed 4 year deferment for certain instruments (loans and core deposit intangibles) is only for certain "nonpublic" entities whose total assets are less than \$1 billion. We think the deferment should be changed to refer to all <u>non-SEC filers</u> with less than \$1 billion in total assets instead.

"Nonpublic entity" is defined in paragraph 9 of the Proposed ASU to include an entity that does <u>not</u> meet certain conditions, one of which is that its equity securities trade in a public market, <u>including securities quoted only locally or regionally</u>. We have a number of relatively small financial institution clients, with asset sizes much less than the \$1 billion threshold, whose stock thinly trades on local exchanges. Consequently, these institutions would not meet the "nonpublic entity" definition and would not be eligible for the 4 year deferral. These small financial institutions would be ill-prepared to deal with the complexities of implementing the standard, which are expected to be significant as evidenced by the relatively long deferment period of 4 years.

A similar problem existed when the ASU on Subsequent Events was issued in late 2009 as the initial standard also used the "nonpublic entity" definition to distinguish between those entities that would use either the issuance date or the available to be issued date. Non-SEC institutions that did not meet the "nonpublic entity" definition because their stock traded on a local exchange quickly ran into implementation issues regarding disclosure of the issuance date. In February 2010, FASB issued ASU 2010-09 which changed the definition from those entities not considered a "nonpublic entity" to "SEC filer". This helped to alleviate implementation issues regarding subsequent events and we think the distinction between nonpublic entity and SEC filer is also appropriate for the Proposed ASU as well.

Paragraph BC 236 of the Proposed ASU discusses the Board's thinking with regard to the effective date and the related deferral. They acknowledged in the discussion that implementation burdens would be significant to "nonpublic" entities that did not have a certain level of sophistication. Based on outreach to constituents, they identified the requisite level of sophistication to be "nonpublic" entities with assets of at least \$1 billion as these entities were subject to the FDIC's requirement for management assessment of the effectiveness of internal control over financial reporting as well as the related auditor's attestation.

Consequently, we recommend that the FASB redefine those entities eligible for the deferral of the Proposed ASU as <u>non-SEC filers</u> with less than \$1 billion in total assets. Alternatively, FASB could redefine the "public" term to exclude private entities whose equity securities trade on local exchanges.

As the public vs. nonpublic definition is one commonly used for delayed effective dates, we also recommend that FASB consider the revised definition on all future proposed ASU's as well.

Rancho Cucamonga, California

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