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1880-100
Comment Letter No. 83

McGladrey

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

File Reference No. 1880-100

Dear Mr. Golden:

We are pleased to comment on the exposure draft (the ED) of the Accounting Standards Update entitled "*Clarifications to Accounting for Troubled Debt Restructurings by Creditors*." We acknowledge that there is diversity in practice related to the identification of troubled debt restructurings but have strong concerns with the proposed retrospective application of certain provisions of the ED and also believe that the more problematic practice issues facing reporting entities are not addressed in the ED. As an example, proposed section 310-40-15-8A indicates that if a debtor does not otherwise have access to funds at a market rate for debt with similar risk characteristics, the restructuring would be considered to be below the market interest rate and therefore should be considered a troubled debt restructuring. The ED does not however address a common scenario in the current environment where loans of a particular type are no longer being originated by the creditor or by other market participants. For example, many community banks are not currently originating land development and construction loans. The ED does not provide guidance as to how a creditor would determine a market interest rate for the types of loans that the creditor and its competitors no longer engage in. In this scenario, a borrower's lack of access to funds may have less to do with the borrower's financial condition and more to do with a decision by the lender (or a regulatory requirement imposed upon the lender) to exit or curtail a particular type of loan.

The determination of the market rate of interest in such situations would be a significant challenge for many lenders as it is quite common for these types of loans to be structured in contemplation of annual renewals and/or potentially repetitive maturity date extensions. The proposed guidance would not assist a creditor in determining whether the interest rate in a modified agreement constitutes a concession because the lender would have no information on what interest rate is being charged in the market. Not only does this factor make the determination of whether a concession occurred difficult, it also makes it difficult for creditors to determine what the interest rate would need to be at the time of renewal or maturity date extension to avoid troubled debt categorization. We therefore suggest that consideration be given to addressing issues such as these within the guidance under consideration. Additionally, we recommend that paragraph 310-40-15-8A be modified given that a lack of access to funds can be driven by factors other than the debtor's financial condition such as overall market conditions and regulatory restrictions. As such, the presumption should not be that a troubled debt restructuring has occurred solely because the debtor does not otherwise have access to funds at a market rate for debt with similar risk characteristics. Rather a creditor would need to determine if a concession was granted due to the debtor's financial difficulties.

With regards to the deferral of maturity dates, we are also unclear as to the Board's intent based on our reading of Paragraph BC3 in the "*Background Information and Basis for Conclusions*" section of the ED. This paragraph contains as an example of a restructuring that "*a receivable might be modified to defer principal payment or maturity, beyond commercially reasonable terms*." This seems to imply that it is the intent of the Board that maturity deferrals that are within commercially reasonable terms are not restructurings. If so, it would be helpful for the Board to define the term "commercially reasonable" or to provide guidance as to how that term should be applied. It would also be helpful to clarify if routine renewals and/or maturity date extensions at the preexisting interest rate constitute a concession given that such renewals and maturity date extensions are customary in practice.

The proposed guidance at 310-40-55-10A (indicators to consider in determining whether a debtor is experiencing financial difficulties) infers in subsection e., that little weight should be placed on guarantors despite a demonstrated ability and willingness to provide financial support. It also infers that no consideration should be given to a borrower's planned business expansion in any circumstance, even if the loan was granted to fund or in contemplation of the expansion. We believe that facts and circumstances such as these should be considered in determining whether a debtor is experiencing financial difficulties, with the weight placed on them commensurate with the extent to which they can be objectively verified. We would therefore recommend that this section of the ED be clarified.

In addition to our concerns elaborated on above, responses to the questions posed in the ED follow.

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 are not aware of wide-spread use of this guidance by creditors in making the determination as to whether a restructuring constitutes a concession. Thus, we do not believe that precluding the application of this guidance will create new, wide-spread operational challenges.

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 believe the proposed changes would result in a more consistent application of the guidance, but as noted above, we believe the guidance falls short of addressing some of the more problematic practice issues.

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 are in agreement that this appears to be an appropriate threshold for this assessment.

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

We strongly believe it will be quite difficult for reporting entities to comply with the retrospective application proposed for the identification and disclosure of troubled debt restructurings. We believe in many cases if would prove very difficult to obtain key information that would be necessary to make a new determination as to whether a restructuring that occurred in the past was a troubled debt restructuring, including what constituted a market rate of interest for debt with similar credit risk at the time of the restructuring to determine if a concession was made and, potentially, sufficient information about the borrower's financial condition at that point in time to determine if the borrower was experiencing financial difficulty.

We believe that the Board's goal of providing comparable information across entities and reporting periods could better be addressed by allowing prospective application of all aspects of the standard with disclosure of the impact in the year of adoption. Obviously, an entity that elects retrospective application of the method of calculating impairment must also retrospectively adopt the disclosure provisions.

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

As noted above, we have concerns with the proposed retrospective application requirements and these concerns extend to both nonpublic and public entities. We believe that prospective application with the same effective date would be appropriate for both nonpublic and public entities.

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

We would not be opposed to the ED permitting early adoption.

We would be pleased to respond to any questions the Board or its staff may have about any of the preceding comments. Please direct any questions to Jay D. Hanson (952-921-7785) or Faye Miller (410-246-9194).

Sincerely,

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