

December 21, 2012

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Technical Director  
Financial Accounting Standards Board  
401 Merritt 7  
PO Box 5116  
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**File Reference No. 2012-250**

**Re: Proposed Accounting Standards Update, *Clarifying the Scope of Disclosures About Offsetting Assets and Liabilities***

Deloitte & Touche LLP is pleased to comment on the FASB's proposed ASU *Clarifying the Scope of Disclosures About Offsetting Assets and Liabilities*. We support the Board's efforts to address the implementation issues identified in the proposal and agree that, in the short term, limiting the scope of the ASU 2011-11<sup>1</sup> disclosures to recognized derivatives, repurchase and reverse repurchase agreements, and securities borrowing and lending transactions is the most effective way of responding to those concerns while still being responsive to the needs of financial statement users and avoiding any delay in the effective date of the disclosure requirements.

If finalized, the proposal will result in divergence from the offsetting disclosure requirements under IFRSs. Although we understand and agree with the Board's rationale for its proposal, we continue to support converged accounting standards. We therefore encourage the FASB, IASB, and their respective staffs to continue to work together to create converged disclosure requirements for offsetting that meet the needs of financial statement users without imposing undue costs on preparers. Post-implementation reviews performed after an appropriate implementation period may help advance these efforts by providing insight into whether the Boards' respective disclosure requirements provided financial statement users with sufficient information to evaluate the effect or potential effect of a reporting entity's offsetting arrangements on its financial position and to compare financial statements prepared in accordance with U.S. GAAP with those prepared under IFRSs

Although we support the proposal, we believe that additional clarifications are necessary to avoid diversity in practice.

**Scope Issues**

The proposal limits the scope of the offsetting disclosures to specific instrument types; however, not all of those instruments are defined clearly in the Codification Master Glossary. For example, there are two definitions of "repurchase agreement" and no definitions of "securities borrowing" or "securities lending" transactions. Accordingly, we believe that each type of instrument specified in the proposal should be clearly defined in the Codification Master Glossary and that duplicate definitions should be eliminated to avoid confusion. The definitions of repurchase and reverse repurchase agreements also

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<sup>1</sup> FASB Accounting Standards Update No. 2011-11, *Disclosures About Offsetting Assets and Liabilities*.

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should align with decisions being reached in the Board's project on repurchase agreements and similar transactions.

The Board also should clarify the meaning of a "recognized derivative." It is unclear whether the following types of instruments would be considered a recognized derivative that is within the scope of the proposal:

- Instruments that satisfy the derivative criteria in ASC 815-10-15-83 but that are not accounted for as derivatives because one of the ASC 815 scope exceptions applies to them (e.g., certain contracts of this nature may have been recorded as a result of a business combination).
- Embedded derivatives, including those that are bifurcated, or hybrid contracts in their entirety. The Codification Master Glossary defines a derivative by reference to ASC 815-10-15-83 through 15-139, and ASC 815-10-15-84 indicates that a bifurcated embedded derivative is considered a derivative. If this is not the Board's intent, further clarification will be necessary in the final ASU.
- Payables and receivables arising from unsettled periodic derivative payments.
- Cash collateral payables and receivables associated with derivative activity, as described in ASC 815-10-45-5.

The scope of the proposal includes specified instruments "that are subject to an enforceable master netting arrangement [MNA] or similar agreement, irrespective of whether they are offset in accordance with either [ASC] 210-20-45 or [ASC] 815-10-45." The Board should clarify what is meant by "master netting arrangement or similar agreement." We understand that some master netting arrangements grant an offset right to only one of the counterparties to the agreement (i.e., a "one-sided" master netting arrangement in which the counterparty, rather than the reporting entity, has the right of offset upon default and the reporting entity lacks a mirror right). We presume that an entity that holds instruments subject to such an agreement, but that has no offsetting rights under the arrangement, should not include such instruments in its tabular offsetting disclosures; however, the treatment of this type of arrangement should be clarified in the final ASU.

Without additional implementation guidance, there is also likely to be confusion in practice about when an agreement (e.g., certain clearing agreements with a central counterparty) is "similar" to a master netting arrangement. The term "master netting arrangement" is not formally defined in the Codification Master Glossary. Discussion in the proposal's Basis for Conclusions suggests that any agreement containing a provision "allowing either party to net in the event of default" would be similar to an MNA. This appears to be a more expansive definition than that discussed in ASC 815-10-45-5. In the final ASU, the Board should provide additional application guidance on what constitutes a "similar agreement." We also note that the proposal has marked ASC 210-20-55-3 for deletion and question whether that paragraph should be retained in the final ASU.

### **Implementation Guidance**

The Board also should clarify certain aspects of the implementation guidance in ASC 210-20-55-19 through 55-22. The Board should consider:

- Removing the line item "other financial instruments" from the examples or clarifying what would be presented for that line item.

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- In ASC 210-20-55-22, clarifying in the example facts that the line items “exchange traded,” “exchange cleared,” or “over the counter” are used because those contracts were determined to be subject to master netting arrangements or similar agreements.
- In circumstances in which collateral posted under an MNA applies to all contracts covered by that arrangement, including instruments that are outside the scope of the proposal, clarifying how an entity should determine the collateral amounts to present in the table (i.e., how an entity should allocate the collateral between instruments that are within the scope of the disclosure requirements and those that are not).
- In circumstances in which an entity offsets two contracts it has with a counterparty under an MNA, but one of those contracts is within the scope of the proposal (e.g., a derivative) and one is not (e.g., a normal purchase or sale contract), clarifying how the arrangement should be depicted in the tabular disclosure.

### **Responses to Questions for Respondents**

We are not aware at this time of any other instruments that should be within the proposal’s scope; however, as noted above, post-implementation assessments performed after an appropriate implementation period may provide insight into whether the scope of the offsetting disclosure guidance should be revisited in the future.

We understand that there may be some confusion regarding the extent of documentation that an entity needs to assert that a nonstandard netting arrangement (e.g., an arrangement that is not a standardized ISDA agreement) is enforceable, as required by the proposal. Some question whether this requirement could cause an agreement to be deemed enforceable in one jurisdiction but not in another. The Board should consider describing its rationale for the enforceability requirement in the final ASU’s Basis for Conclusions and should ask constituents for feedback on whether this requirement could pose operational challenges.

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We appreciate the opportunity to comment on the proposed ASU. If you have any questions concerning our comments, please contact Mark Bolton at (203) 761-3171.

Yours truly,  
Deloitte & Touche LLP  
cc: Robert Uhl