



Letter of Comment No: 47
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Technical Director -- File Reference 1225-001
Financial Accounting Standards Board

Sent via e-mail

The Conference of State Bank Supervisors (CSBS) is pleased to have the opportunity to comment to the Financial Accounting Standards Board (FASB) on the Exposure Draft for the Accounting for Transfers of Financial Assets, an amendment of FASB Statement No. 140. CSBS is the national organization of state officials responsible for chartering, regulating and supervising the nation's 6,250 state chartered commercial and savings banks and over 400 state-licensed branches and agencies of foreign banks.

The state banking departments are pleased that this latest exposure draft does not require qualifying special-purpose entities (SPEs) to obtain sales accounting on all loan participations. However, we remain very concerned with the consequences that this proposal will have on financial institutions.

The source of our concern is detailed in paragraph 8A, subsection b:

“All cash flows received from the asset are divided among the participating interests...in proportion to the share of ownership represented by each...”

This section would prohibit a bank from utilizing the “last-in first-out” method. This method is commonly used to manage a customer's operating line of credit, where the balance will fluctuate according to cash flow. The originating bank will customarily advance funds to a customer until such time as the debt approaches the legal lending limit. At that time, the bank will place a portion of the debt with a participating bank. As the borrower's cash flow from operations increases, the participating institution is paid first. This is a cost effective and simplified approach for a community bank. Requiring that financial institutions account for lines of credit financing on a pro rata basis will increase regulatory burden for the financial institution and the cost of borrowing for small businesses.

This section would also prohibit financial institutions from selling the Federal guaranteed portion of loans, since in the event of default the sold portion would get paid first. The sale of guaranties is an established market providing financial institutions with an important liquidity mechanism. The structural provisions of government guaranteed loans are typically dictated by the government agency guaranteeing the loan and not subject to the control of the financial institution. The effect of FAS 140 and the inability to accord sale treatment to participations sold on these loans could impact the ability of financial institutions to

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participate in Small Business Administration, Farm Service Agency and other programs, which could have a negative public policy and economic impact on these programs.

We request that FASB revisit the issue of requiring a qualifying SPE to achieve sale accounting for transfers of portions of financial assets that do not involve a pro rata division of cash flow. We believe the alternative views expressed in paragraphs A49 to A54 are meritorious, well supported and warrant additional consideration.

Financial institutions receive regular onsite examinations from their chartering authority and primary Federal regulator. The integrity of the bank's internal control and accounting processes is critical to the safety and soundness examination. While the state banking authorities support the use of loan participations to mitigate risk and serve the local economic development needs, we also hold banks accountable to the terms of these agreements. With due respect, we believe that FASB is attempting to solve a problem that does not exist in financial institutions.

Thank you for the opportunity to provide these comments. We look forward to further discussion on this and other topics in the future.

Best personal regards,

A handwritten signature in black ink, appearing to read "Neil Milner". The signature is written in a cursive, flowing style.

Neil Milner
President and CEO