

July 31, 2006



LETTER OF COMMENT NO. 5

Technical Director
Financial Accounting Standards Board
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Proposed FSP FAS 126-a, "Revision to the Definition of a Public Entity to Include an Obligor for Conduit Debt Securities"

Dear Mr. Smith:

We appreciate the opportunity to comment on proposed FASB Staff Position FAS 126-a, "Revision to the Definition of a Public Entity to Include an Obligor for Conduit Debt Securities."

Investors and potential investors in publicly traded debt securities, regardless of whether the obligor is the issuer or whether the issuer is an SEC registrant or a municipality, need transparent financial information that is relevant to their investment decisions. Therefore, we support issuance of an FSP that clarifies the definition of a public entity to include obligors for publicly traded conduit municipal securities. However, we believe the proposed guidance could be clarified and offer the following suggestions.

FSP identifier

The proposed FSP would amend the definition of a public entity in several accounting standards, yet the title is limited to Statement 126, *Exemption from Certain Required Disclosures about Financial Instruments for Certain Nonpublic Entities*. We are concerned that affected constituents may not realize the FSP could impact them. We suggest that title should include a reference to the other standards that will be affected by the proposed change.

Terminology—Clear definitions and consistent use

We believe that the description and use of key terms could be clarified.

Conduit bond or debt securities

We suggest clarifying which conduit obligations—bonds or debt securities—would be included in definition of a public entity.

Paragraph 5 and the amendments in Appendix A state that “a conduit bond obligor for conduit debt securities that are traded in a public market” meets the definition of a public entity. In paragraph 2, a *conduit bond obligor* is identified by reference to a *conduit municipal bond*. The definition of *conduit debt securities* in Appendix A “refers to certain limited-obligation revenue bonds, certificates of appreciation, or similar debt instruments.”

- If the term *conduit bond obligor* is intended to encompass obligors for a subset of conduit *debt securities* (for example, certain limited-obligation revenue bonds but not certificates of participation or similar debt instruments), then we recommend providing a definition of *conduit bonds* or *conduit municipal bonds* rather than of *conduit debt securities*. There would be no need to extend the definition to any class of debt securities outside the scope of the FSP.
- If the term *conduit bond obligor* is intended to encompass obligors for any type of conduit debt security, as defined, then we suggest changing *conduit bond obligor* to conduit *debt* obligor to make the terminology and definitions in the FSP internally consistent.

Conduit obligor

We recommend providing a definition of *conduit obligor* in the FSP and in each amendment in Appendix A. The FSP and the amendments in Appendix A use the term *conduit bond obligor* but do not define it. Although paragraphs 2 and 3 of the FSP provide some guidance on identifying the obligor, that guidance is less than a definition and is not included in the proposed amendments in Appendix A.

- Paragraph 2 equates *conduit bond obligor* with a private party for whose use the conduit municipal bond offering was made.
- Paragraph 3 states, “In the initial bond offering, the governmental entity is listed as the issuer and the conduit bond obligor is listed as the obligor.” We are aware of a conduit bond arrangement that provides for limited additions, deletions, and substitutions of entities in an obligated group after the initial offering. That initial offering document identifies only those entities that were members of the obligated group as of the initial offering.

We suggest the amendments include a definition such as the following, which incorporates the notion of being obligated; that is, committed by contract or other arrangement to support payment of the debt. We believe that the suggested definition would be consistent with the description of *conduit debt securities* in Appendix A, which indicates that it is the third party obligor’s lease or loan agreement with the governmental issuer that provides the resources to pay the conduit debt.

A conduit[bond or debt] obligor means any party that is not a part of the issuer’s financial reporting entity and that is committed by contract or other arrangement to support payment of all, or part of the conduit [bond or debt securities] (other than providers of municipal bond insurance, letters of credit or other liquidity features.)

Conduit debt securities

The proposed amendments to existing pronouncements in Appendix A each include the following definition of *conduit debt securities*:

Conduit debt securities refers to certain limited-obligation bonds, certificates of participation, or similar debt instruments issued by a state or local governmental entity for the express purpose of providing financing for a specific third party that is not a part of the state or local government's financial reporting entity. Although conduit debt securities bear the name of the governmental issuer, the governmental issuer has no obligation for such debt beyond the resources provided by a lease or loan with the third party on whose behalf they are issued.

We suggest that this definition (or the definition of *conduit bonds*, depending on the response to our previous comments) be included in the background section of the FSP, so that the discussion in the FSP is consistent with the actual amendment language in Appendix A.

We also suggest that the background section describe a typical conduit arrangement in which the conduit obligor enters into a lease or loan agreement with the municipal issuer of the conduit debt, and it is the lease or loan payments to a trustee or the issuer that are designed to provide the funds to pay the principal and interest on the conduit debt. The structure of a conduit arrangement that involves a lease or loan agreement between the conduit obligor and the issuer is referred to in the definition of *conduit debt securities* in Appendix A, but is not addressed in the proposed FSP, which states in paragraph 3, "The conduit bond obligor is required to make all interest and principal payments as they become due..."

Definition of a public entity

Since 1995, Exchange Act Rule 15c2-12 has prohibited (with certain exceptions) a broker or dealer from purchasing or selling a primary offering of municipal securities unless the obligated party had agreed, for the benefit of investors, to provide audited annual financial statements to nationally recognized municipal securities information repositories (NRMSIRs). Because the explicit purpose of that requirement is to make financial statements available to public investors, we suggest that the definition of a public entity include a conduit debt obligor that has committed to provide continuing financial disclosures to NRMSIRs.

We would be pleased to discuss our comments and recommendations with Board members or staff. Please direct your questions or comments to Joseph Graziano at (732) 516-5560 or Ann McIntosh at (612) 677-5257.

Sincerely,

/s/ Grant Thornton LLP