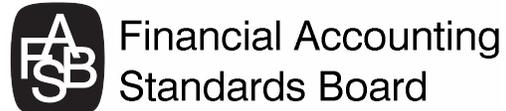


MINUTES



To: Board Members
From: Nontraditional Loan Products Team
(Jacobs, ext. 451/Cronin, ext. 443)
Subject: Minutes of the December 7, 2005 Board Meeting **Date:** December 13, 2005
cc: Bielstein, L. Smith, Petrone, Polley, Swift, Gabriele, Getz, Mahoney, Sutay, Leisenring (IASB), Wilkins, Lott, Cronin, Jacobs, Golden, Carney, FASB Intranet, Francis (IASB)

The Board meeting minutes are provided for the information and convenience of constituents who want to follow the Board's deliberations. All of the conclusions reported are tentative and may be changed at future Board meetings. Decisions become final only after a formal written ballot to issue a final Statement or Interpretation.

Topic: Proposed FSP SOP 94-6-a, "Nontraditional Loan Products"
Basis for Discussion: Board Memorandum No. 3 dated November 29, 2005
Length of Discussion: 10:00 a.m. to 10:15 a.m.

Attendance:

Board members present: *FASB:* Batavick, Crooch, Herz, Schipper, Seidman, Trott, and Young
IASB: Leisenring

Staff in charge of topic: Jacobs

Other staff at Board table: L. Smith, Cronin

Outside participants: None

Summary of Decisions Reached:

The Board discussed comments received from constituents on the proposed FASB Staff Position (FSP) SOP 94-6-a, “Nontraditional Loan Products.” The Board made the following decisions:

1. An effective date should be added to Question 1 of the proposed FSP.
2. Nontraditional loans do not represent a *major category* as that term is used in AICPA Statement of Position 01-6, *Accounting by Certain Entities (Including Entities With Trade Receivables) That Lend to or Finance the Activities of Others*. Therefore, the reference to SOP 01-6 should be removed from the FSP.
3. The final FSP should be posted to the FASB website, subject to drafting which will focus mainly on rewording the definition of a nontraditional loan product.

Objectives of Meeting:

The objective of the meeting was for the Board to discuss the following issues raised by respondents in their comment letters:

- Definition of a concentration of credit risk
- Effective date and transition
- Definition of “nontraditional loan products”
- Appropriateness of nontraditional loan products as a major loan category
- Other editorial amendments.

Matters Discussed and Decisions Reached:

1. Mr. Jacobs stated that the purpose of the meeting is for the Board to address issues raised by respondents regarding the proposed FSP SOP 94-6-a, “Nontraditional Loan Products.” He noted that the comment period ended on November 11 and that six comment letters were received.

Definitions & Effective Date and Transition

2. Mr. Jacobs stated that certain respondents believed that the interpretation in Question 1 of the proposed FSP which suggests that nontraditional loan products may represent a concentration of credit risk would result in a change in practice. These respondents generally noted that “using loan payment terms as a means of identifying a credit risk concentration appears to be a new interpretation of Statement 107 that was not previously contemplated in practice.” Mr. Jacobs noted that the staff has considered the requirements in Statement 107 and continues to believe that the interpretation provided in the FSP is consistent with the requirements of Statement 107. The staff believes that grouping borrowers by the features of the loan product that they have selected is an appropriate interpretation of a *concentration of credit risk* as that term is used in Statement 107. Therefore, no change has been made to the proposed FSP regarding the interpretation of Statement 107.
3. Mr. Jacobs affirmed that the interpretation in the FSP will likely be a change from current practice. To address this matter, he stated that the staff recommends the Board provide an effective date for this interpretation. The staff recommended that the interpretation is effective for interim and annual periods ending after the date the FSP is posted to the FASB website. Furthermore, the staff recommends that the effective date is only applicable to the interpretation of Statement 107 provided in Question 1. Thus, no effective date would be provided for the other disclosure and accounting considerations in the FSP (that is, Question 2). Mr. Jacobs asked if the Board continues to agree that nontraditional loan products may represent a concentration of credit risk and also if the Board would agree to adding an effective date to Question 1 of the proposed FSP?
4. All Board members agreed with the staff analysis and support adding an effective date to Question 1 of the proposed FSP. Ms. Seidman agrees that nontraditional loan products *may* cause a concentration of credit risk. She noted that she is sympathetic to comments raised about a focus on payment terms and stated that a difference in payment terms may or may not yield a concentration of credit risk. She explained her preference to address this

issue in a manner outside of an FSP because this guidance is merely raising an awareness that sometimes a combination of unusual payment terms, aggressive underwriting practices, and dependence on collateral in a volatile collateral market could cause a concentration of credit risk; however, she concluded that the information in the FSP is appropriate.

5. Ms. Schipper emphasized that the focus is on the term *economic characteristic* in the definition of a concentration of credit risk in Statement 107, which can include not only details about the borrower or the collateral but also details about the loan itself. The problem lies in the fact that the reference point for the term *nontraditional* is *traditional*, which is a term that is also undefined. Thus, all of the definitions in this document are circular. Ms. Schipper agrees with staff's recommendation subject to its ability to more clearly define the subject of this analysis. Mr. Herz noted that banking regulators might have developed a more concrete definition of "nontraditional loans" in terms of capital ratios or capital computations.
6. Mr. Batavick brought up an additional concern by pointing out that what is considered nontraditional today may very well become traditional at some point in the future. However, Mr. Batavick stressed the importance of issuing this guidance in a timely manner and therefore would not labor too much over this issue. He also noted that in communications with the constituents, there did not appear to be any misunderstanding about what was meant by the term *nontraditional loan products*.

Major Category of Loans

7. Mr. Jacobs stated that some respondents noted that they do not believe that nontraditional loans represent a major category under SOP 01-6. Upon reconsideration of the requirements of SOP 01-6, the staff agreed with the respondents that nontraditional loans would not represent a major category. As a result, Mr. Jacobs noted that the staff has removed the reference to SOP 01-6 from the FSP. The staff believes that the remaining guidance (or "reminders") in the FSP provides sufficient disclosures for consideration by preparers. One of the reasons for removing the reference to SOP 01-6 was

that the staff did not intend for all nontraditional loans to be grouped and displayed as one category, but rather, loans with similar characteristics that create higher risk would be appropriately grouped and disclosed. The staff has clarified in the FSP that a product type may be disclosed separately (for example, all Option ARMs) or as a group of products with similar features (for example, loans with the contractual ability to negatively amortize, which could include Option ARMs and other products). Mr. Jacobs asked the Board if they agree with the preceding recommendations. All Board members agreed with the proposed resolution of the constituents' comments.

Posting the Finalized FSP to the FASB Website

8. Mr. Jacobs asked the Board if it would approve the posting of the final FSP to the FASB website, subject to drafting suggestions. All Board members agreed.

Follow-up Items:

9. The staff will follow up on the drafting suggestions submitted by Board members focusing on the definition of a nontraditional loan product. Additionally, the staff will contact the bank regulators to determine if they have developed a definition of *nontraditional* since the inception of this project.

General Announcements:

None.