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November 29, 2010

Via email

Technical Director
File Reference No. 1880-100
Financial Accounting Standards FASB
401 Merritt 7
PO Box 5116
Norwalk, Connecticut 06856-5116

Re: File Reference No. 1880-100, Proposed Accounting Standards Update, Receivables (Topic 310), *Clarifications to Accounting for Troubled Debt Restructurings by Creditors*

Dear Sir:

Wells Fargo & Company (Wells Fargo) is a diversified financial services company with over $1.2 trillion in assets providing banking, insurance, trust and investments, mortgage banking, investment banking, retail banking, and consumer finance. We appreciate the opportunity to comment on the FASB's File Reference No. 1880-100, Proposed Accounting Standards Update, *Receivables (Topic 220), Clarifications to Accounting for Troubled Debt Restructurings by Creditors* ("Proposed ASU").

Executive Summary

The proposed guidance clarifying whether a modification of a loan meets the criteria to be considered a troubled debt restructuring ("TDR") is inconsistent with existing industry practice and regulatory guidance, is operationally difficult as currently drafted without scoping in large numbers of additional classified loans, is not aligned with the Board's IASB convergence agenda, adds confusion to current credit quality disclosures, and will not provide more useful and transparent information for financial statement users. We believe financial statement users are concerned with the extent and nature of loan modification activity and its impact on the financial statements. Accordingly, users place emphasis on the level of modification activity and whether the loss content of modified loans is appropriately reflected in the allowance for credit losses. Additional focus on TDRs, a judgmentally determined subset of loan modifications, is not necessary to provide users with increased transparency about loan modification activities.

It is important to understand the role that banking regulators have played in the development of existing practices for identifying TDRs. Regulators both issue guidance specifically related to the identification of TDRs and conduct regular reviews of a Bank's modification activities. Because of the large amount of judgment that goes into a TDR determination, regulators have attempted to "fill-in the gaps" in the accounting literature. It is not clear to us that the Board has partnered with either the financial services

industry or the banking regulators on this topic to understand current industry practices, how regulators have shaped those practices, the rationale for those practices, and any unintended consequences that may arise from changing those practices.

Finally, we do not understand why it is necessary for the Board to address a perceived diversity in practice in the identification of TDRs at the same time that it is in discussions with the International Accounting Standards Board (the "IASB") on a new impairment model that, when final, will almost certainly eliminate the existing ASU 310-10-35 (formerly, FAS 114[1]) trigger to recognize a life of loan impairment for certain loans identified as a TDR. Without the impairment trigger, the TDR classification is irrelevant and a financial statement user would only care about the total loan modification activity. Even today, the impairment trigger is only relevant for homogeneous pools of consumer loans that are otherwise scoped out of ASU 310-10-35. When individually assessed as impaired, commercial loans are subject to ASU 310-10-35 irrespective of modification activity. We believe that an entity's process for determining its allowance for credit losses and the proper reflection of the loss content of the loan portfolio in the financial statements is far more relevant to users than the identification and reporting of TDRs.

For these reasons, we do not support the issuance of the proposed guidance at this time. We would support efforts by the Board to replace the disclosure of TDRs with disclosure of an entity's total loan modification activities and the related impact, which we believe would provide superior and more useful information to financial statement users.

If the FASB decides to proceed with the Proposed ASU, the timing of any proposed guidance should be coordinated with the effective date of the new loan modification disclosures required by the Credit Quality ASU[2]. However, because the loan modification disclosures are effective in the first quarter of 2011 and would then be updated based upon the requirements of the Proposed ASU, we encourage the FASB to defer the effective date of loan modification disclosures required by the Credit Quality ASU to coincide with the guidance in the Proposed ASU. This would ensure consistent application across the annual reporting period for calendar year-end companies.

Specific Comments on Proposed ASU

Our specific comments related to the Proposed ASU are expressed below.

- The FASB should eliminate the concept of a TDR: Users are primarily concerned with the adequacy of the allowance for credit losses. In addition to TDRs, preparers already provide extensive, and to some extent redundant, information on loan credit quality, including separate disclosures of impaired loans, non performing loans, and purchased credit-impaired ("PCI") loans. Moreover, the newly issued Credit Quality ASU will require significantly more information about loan credit quality. Accordingly, we believe separate disclosure of a subset of loan modifications designated as TDRs is confusing and provides users with, at best, only incrementally useful information to evaluate the adequacy of the impairment allowance.

  Expanding the identification and designation of loan modifications as TDRs should not affect the allowance for credit losses for most loans. For example, when individually assessed as impaired, commercial loans are already subject to ASU 310-10-35. In addition, many commercial loan extensions include enhanced collateral provisions and interest rate increases. Even if the newly

[1] FASB Statement No. 114, *Accounting by Creditors for Impairment of a Loan--an amendment of FASB Statements No. 5 and 15*
[2] Accounting Standard Update No. 2010-20, Receivables (Topic 310), *Disclosures about the Credit Quality of Financing Receivables and the Allowance for Credit Losses*

modified rate is less than the prevailing "market" interest rate, and thus the loan modification qualifies as a TDR, an incremental allowance for credit losses is not necessary.

- Disclosure of loan modifications by credit quality indicator would provide more decision useful information to financial statement users: Current TDR disclosures are a judgmentally determined and subjective subset of loan modifications. As such, current TDR disclosures do not provide decision useful information about the adequacy of an entity's allowance for credit losses. Enhancements to the credit quality disclosures required by the newly issued Credit Quality ASU will provide a more comprehensive disclosure framework for modified loans, without specifically designating a modified loan as a TDR. We recommend providing modification disclosures by loan class using the same credit quality indicators required by the Credit Quality ASU. Such a schedule of loan modifications would be more relevant because it would allow users to make their own judgments about loan modifications and their corresponding impact on the allowance for credit losses.

- The methodology used to measure impairment should not be linked to the modification of a loan: Delinking the impairment methodology from the modification of a loan would be more consistent with International Financial Reporting Standards ("IFRS"), which simply requires the disclosure of "renegotiated" financial assets that would be otherwise past due or impaired[3]. Not only would such an approach be consistent with our recommendation above to disclose loan modifications based on credit quality, it would also be consistent with the direction of the FASB and IASB joint efforts to simplify and improve the overall credit impairment framework in connection with the Financial Instruments ED. Based on the most recent Board deliberations, the basis for the new credit impairment framework will likely be expected losses. As such, it should not be necessary to separately distinguish TDRs for purposes of credit impairment and disclosure. Accordingly, we reiterate our recommendation above to eliminate the concept of a TDR.

  With respect to convergence, delinking the impairment methodology from the modification of a loan and eliminating the TDR concept would be a more efficient and cost effective approach for preparers as it would avoid implementation of the proposed guidance that will likely be replaced in the future with the newly converged guidance.

- The proposed guidance will nullify long-standing industry practice developed in connection with banking regulators: Due to the significant judgment required in the assessment of a TDR, banking regulators often provide interpretive guidance to supplement existing accounting literature. Similar interpretive guidance has also been issued by other practice groups, such as the Center for Audit Quality[4]. Industry practice for the identification and reporting of TDRs has developed and been reinforced over many decades based upon targeted guidance and periodic reviews of loan modification activities by banking regulators. For example, the OCC recently issued formal guidance[5] that indicated mortgage modification programs of three months or less represents an "insignificant delay". Accordingly, loan modifications performed under such programs would not result in TDRs. The guidance in the Proposed ASU will nullify established OCC guidance.

  Currently, loan modifications performed in connection with certain consumer loan modification programs are not considered TDRs during the mandatory trial period. For example, the Home Affordable Modification Program (HAMP) requires a minimum three month trial period during which

[3] International Financial Reporting Standard 7, *Financial Instruments: Disclosure*
[4] CAQ White Paper, *Application of Statement 114 to Modifications of Residential Mortgage Loans that Qualify as Troubled Debt Restructurings*
[5] Policy Interpretation - Supervisory Memorandum 2009-7

the borrower establishes a willingness and ability to make payments under the modified terms of the loan. Upon the successful completion of the trial period, the modification becomes permanent and is classified as a TDR. Unsuccessful modifications typically result in a charge-down of the loan. In addition, many banks grant up to a three month delay or reduction in payments as part of a forbearance program. Accordingly, the proposed guidance will scope in significantly more loans than required under previous regulatory guidance. The establishment of a three month scope exception for insignificant delays would maintain current industry practice and avoid the result of having additional TDRs with relatively insignificant loan impairment charges, while easing some of the operational burden of the Proposed ASU for preparers.

It does not appear that the FASB has performed sufficient outreach to understand current industry practice, how banking regulators helped shape current practice, or the rationale for current practice. We strongly encourage the FASB to perform outreach with the financial service industry and banking regulators prior to the issuance of any new guidance to avoid these and other unintended consequences.

- The ability of a lender to obtain a market interest rate from a troubled borrower should not be a relevant factor in the determination of a TDR: Banks primarily manage lending relationships for the preservation of contractual cash flows rather than on a fair value basis. Accordingly, the rate of interest for a modified loan is often a function of the financial wherewithal of the borrower, which may or may not be indicative of a market rate of interest. Current TDR guidance already relies heavily on the identification of a market interest rate and the proposed guidance gives even more prominence to this factor. Given that the primary measurement attribute for loans is, and is expected to remain amortized cost[6], it is not clear why a modification at an off-market rate should result in the designation of a loan modification as a TDR. If the FASB continues to believe TDRs are relevant, TDRs should be limited to modifications that include forgiveness of loan principal or past due interest, or a reduction in the stated interest rate.

- Market interest rates for troubled loans are not always transparent: Assessing whether the rate of interest on a modified loan is at or near the market is often difficult due to complexities related to specialized terms, nature of collateral and form and substance of guarantees. Moreover, in the present economic environment, it has not been unusual for local credit markets to become inactive, virtually shutting out the availability of credit for many different kinds of credit vehicles, whether they are new or modified. Accordingly, virtually all commercial loan modifications (including extensions) would be considered TDRs in recessionary economic cycles.

- PCI loans should be exempt from TDR disclosures: ASU 2010-18[7], provides an effective scope exception from TDR disclosures for PCI loans that are accounted for as a single asset within a pool under ASC 310-30[8]. However, there are a significant number of loans, such as commercial loans, that are accounted for individually, given their lack of common risk characteristics. Although conceptually, an individual PCI loan could be identified as a TDR, these loans are, by definition, already classified as "credit-impaired." In addition, determining whether a modified PCI loan qualifies

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[6] The FASB exposed the Proposed Accounting Standards Update, *Accounting for Financial Instruments and Revisions to the Accounting for Derivative Instruments and Hedging Activities - Financial Instruments (Topic 825) and Derivatives and Hedging (Topic 815)* in June 2010 (the "Financial Instruments ED"). The vast majority of respondents did not support the proposed expansion of fair value as the primary measurement attribute for financial instruments. We issued our comment letter to the FASB in August 2010.
[7] ASU 2010-18, *The Effect of a Loan Modification When the Loan Is Part of a Pool That Is Accounted for as a Single Asset*
[8] ASC 310-30, *Loans and Debt Securities Acquired with Deteriorated Credit Quality* (formerly, SOP 03-3)

as a TDR would be operationally challenging because the existing nonaccretable difference makes it difficult to determine whether a modification results in a concession. Accordingly, TDR disclosures for PCI loans are unnecessary due to the nature of the existing disclosures and accounting required by ASC 310-30. For these reasons, we encourage the FASB to extend this scope exception to PCI loans that are accounted for individually.

- Retrospective application may not be operational: It would be operationally burdensome for financial institutions to retroactively apply the proposed guidance. Most financial reporting systems do not retain the necessary information that would be required to perform such a retroactive assessment for the identification of TDRs. Additionally, we note that recent, newly issued disclosure requirements have generally not required retrospective application; instead such disclosure requirements have been effective prospectively. The benefits of retrospective application are not justified by the additional costs and we believe that any proposed guidance should be revised to permit full prospective adoption for TDRs based on the Proposed ASU.

- Retrospective application may have corresponding impacts on previous accounting conclusions made in connection with existing accounting standards: ASU 2009-17[9] was effective as of January 1, 2010 and specifically requires the consideration of TDRs in the assessment of an entity's primary beneficiary as well as whether an entity is a variable interest entity. Accordingly, retrospective application of the proposed guidance will require preparers to reconsider consolidation decisions made previously in connection with the adoption of ASU 2009-17, resulting in implementing the same accounting standard twice. In addition, the proposed guidance requires creditors to revisit conclusions pursuant to EITF 01-7[10] when the cash flows from a modified loan are "substantially different" than the existing loan. If such modifications qualify as TDRs under the proposed guidance, amounts previously recorded to interest income must be reversed. Reperforming these assessments will be especially burdensome, particularly given the implementation of the other standards described in the FASB's Discussion Paper, *Effective Dates and Transition Methods*. We do not believe the cost of revisiting prior conclusions outweighs the benefits, if any, to users and encourage the FASB to permit prospective application of any proposed guidance.

Conclusion

We support the FASB's objective to provide increase transparency related to loan credit quality; however, we do not support the guidance as proposed. We strongly encourage the FASB to eliminate the concept of a TDR and replace current TDR disclosures with more relevant loan modification disclosures based on loan credit quality indicators. Loan modification disclosures based on credit quality will be more decision useful and will provide better comparability, consistency and transparency with respect to the allowance for credit losses and loan credit quality among preparers.

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[9] ASU 2009-17, *Consolidations, Improvements to Financial Reporting by Enterprises Involved with Variable Interest Entities* (formerly, FAS 167)
[10] EITF 01-7, *Creditor's Accounting for a Modification or Exchange of Debt Instruments*

We appreciate the opportunity to comment on the issues contained in the FASB's Proposed ASU. If you have any questions, please contact me at 415-222-3119.

Sincerely,

/s/ Richard D. Levy

Richard D. Levy
Executive Vice President & Controller

cc: Financial Accounting Standards FASB Members
Kathy Murphy – Office of the Comptroller of the Currency
Art Lindo – Federal Reserve FASB
Robert Storch – Federal Deposit Insurance Corporation
Donna Fisher – American Bankers Association
Gail Haas – New York Clearing House Association