

David Schraa
Regulatory Counsel



October 10, 2013

1333 H Street, NW, Suite 800E
Washington, DC 20005-4770

TELEPHONE 202.857.3600

FAX 202.775.1430

WEB iif.com

Mr. Russell Golden, Chairman
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, Connecticut 06856-5116

Mr. Hans Hoogervorst, Chairman
International Accounting Standards Board
30 Cannon Street, First Floor
London, EC4M 6XH
United Kingdom

Re: Financial Instruments – Solely payment on principal and interested for contractually linked instruments.

Dear Messrs. Golden and Hoogervorst:

As you are aware, the industry has a number of concerns with the SPPI test, which have been raised in different fora. This letter addresses one specific concern in further detail. The Institute of international Finance (IIF) Senior Accounting Group (SAG) asks the FASB and the IASB to consider modifying and clarifying the existing language in their guidance for assessing the Solely Payment of Principal and Interest (SPPI) characteristics of securitized assets. This letter does not address general issues with the SPPI tests or the business model requirements. The IIF SAG has commented previously on these topics, and noted specific challenges in the context of contractually linked instruments of possible rate mismatches¹.

The present letter is focused on the look-through requirements which are unique to contractually linked instruments. In this letter the IIF SAG does not suggest changing the securitized assets classification requirement set out in IFRS 9 *Financial Instruments: Classification and Measurement*, but aims to ensure that the look-through requirements can be applied in a pragmatic and workable manner. The IIF SAG proposal refers primarily to IFRS 9 but would apply equally to the FASB *Financial instruments – Overall (subtopic 825-10)*. References are provided in Appendix A. Many aspects of IFRS 9 are subject to change as the standard is finalized. (See Appendix C for the Boards last tentative decisions). However, areas that the Boards are reconsidering are not particular to securitized assets and further clarifications would affect the general assessment rather than **how** the assessment on these assets would be performed.

¹ See IIF SAG comment letters on IFRS Exposure Draft 2012/4: *Classification and measurement: Limited Amendments to IFRS 9*- April 3, 2013 and on the FASB Exposure Draft *Financial instruments – Overall (Subtopic 825-10)* - May 15, 2013.

Background

In order to classify appropriately contractually linked financial assets, such as those typically issued by securitization structures, the current standard, IFRS 9 *Financial Instruments: Classification and Measurement* requires that an entity must 'look through' to the underlying assets in the securitization pool to ensure that such assets meet the contractual terms requirements to be solely for the payment of principal and interest (SPPI) and that the interest earned reflects a return only for the time value of money and credit risk.

Under the current wording, in some jurisdictions, most notably the U.S., pragmatic approaches to achieve compliance may not be accepted by preparers, auditors and regulators. There is a concern that the look-through approach currently described in IFRS 9 - and being proposed by the FASB - could be interpreted as a prescriptive requirement that would be operationally complex and onerous to implement. Whilst U.S. reporters will follow the U.S. equivalent to IFRS 9, it is fundamental to convergence that the underlying wording and concepts be as close as possible and that the understanding and application of the requirements be consistent, as divergence could lead to materially different classification decisions. Therefore, modifications to the language used in the requirements would need to be made to both standards. Consistently with this, any proposed application guidance should reflect the steps entities would actually take in applying the look-through approach.

Purpose of this paper

This paper proposes some application guidance that is intended to be fully consistent with the principles in paragraphs B.4.1.20 to B.4.1.26.

IFRS 9 classification requirements, contractually linked instruments

IFRS 9 requires the holder of an instrument that is one of a series of contractually linked financial instruments to 'look through' the structure to identify the underlying pool of instruments that are creating, rather than passing through, the cash flows. In order to qualify for measurement at amortized cost, the following criteria are required to be met:

1. The contractual terms of the instrument being assessed have cash flow characteristics that are SPPI on the principal amount outstanding.
2. The underlying pool must contain one or more instruments that have contractual cash flows that are SPPI on the principal amount outstanding.

Any other instruments in the underlying pool either:

- (a) Reduce the cash flow variability of the underlying pool of instruments in a way that is consistent with representing SPPI on the principal amount outstanding; and
 - (b) Align the cash flows of the issued financial assets with the underlying pool of financial instruments
3. The exposure to credit risk in the underlying pool of financial instruments inherent in the tranche is equal to, or lower than, the exposure to credit risk of the underlying pool of instruments.

If it is not practicable to look through to the underlying pool of instruments, then the tranche must be measured at fair value through profit or loss (FVPL).

Application of criteria

Unit of account

B4.1.25 (FASB – 825-10-55-27) states in relation to the look-through approach that “*if any instrument in the pool does not meet the conditions (...) the condition is not met.*”

The principle of the look-through assessment is clear; however some preparers are concerned that B4.1.25 – B4.1.26 (or FASB - 825-10-55-27) could be interpreted as requiring the look-through test to be applied on an individual instrument-by-instrument basis. The IIF SAG believes neither the IASB nor the FASB actually intended to require the test to be applied to each individual instrument in a portfolio, despite interpretation that might suggest such an intent.

In practice, the IIF SAG believes an entity would examine the design, purpose and performance of the securitization entity and the interest held, to perform an assessment based on the evaluation of the available offering documents, the investment mandate of the vehicle, current market knowledge and other available information. The approach uses this information to understand the nature of the underlying assets rather than reviewing them directly and would require the application of judgment to establish whether there is sufficient evidence to conclude that the instruments in the securitization vehicle are compliant with the requirements. The approach therefore fully satisfies the requirement of paragraph B4.1.25 but does not require performance of a detailed instrument-by-instrument look through. Where it is not possible to obtain the information to perform the assessment described above, FVTPL classification would be required.

The next sections outline in further detail the assessment that would be applied.

Application of the criteria on alignment of cash flows from the pools SPPI and all other instruments

IFRS 9 B4.1.24 allows for the pool to include (a) assets that align the cash flows of the tranches with the cash flows of the underlying instruments to address differences in fixed versus floating interest rates, currencies or timing of cash flows, or (b) instruments that reduce the cash flow variability of the pool and, when combined with the other instruments in the pool, result in cash flows that are solely payments of principal and interest.

In relation to credit default swaps (CDS), in line with BC4.35 purchased CDS (“purchased protection”) may be viewed as reducing the risk of the underlying pool provided that the derivative pays out only to compensate loss of principal and interest (akin to a financial guarantee contract). Such instruments therefore would not fail the SPPI criteria.

The majority of contractually linked structures containing CDS (e.g., synthetic CDO structures) contain written rather than purchased credit protection, which would not be viewed as reducing the credit risk of the underlying pool. Synthetic structures are therefore intended for risk transfer to investors and to minimize funding relative to pool size. The IIF SAG believes structures containing this type of synthetic exposure should be precluded from classification at

amortized cost without a further look-through analysis, as it should be clearly evident (from relevant documentation, discussions with the business, rating agency publications, etc.) where a structure is synthetic or not.

Plain vanilla currency and interest rate swaps (including caps, floor and collars) are generally considered to align the cash flows of the assets of a contractually linked structure so as to reduce the risks to which investors are exposed (based on concepts developed under U.S. GAAP) and therefore would not preclude a tranche from being measured at amortized cost. Another example would be a Commercial Mortgage Backed Security (CMBS) securitization with an underlying pool combining fixed rate mortgages and mortgages with a floating rate over Euribor that also contains a fixed for floating interest rate swap in order to receive a floating Euribor rate on the fixed rate loans to match the rate paid on the CMBS. Such a securitization would be measured at amortized cost as the swap aligns the cash flows of the issued financial instrument with the underlying pool.

IFRS 9 requires that the exposure to credit risk in the underlying pool of financial instruments of a tranche be equal to, or lower than, the exposure to credit risk of the underlying pool of instruments. However, the standard does not prescribe a precise method for comparing the exposure to credit risk in the tranche held to the credit risk of the underlying pool of financial instruments. The IIF SAG agrees with this approach and believes entities would use primarily qualitative criteria for the analysis where possible, since for many tranches the analysis will be relatively straight forward. Therefore, the IIF SAG would recommend the approach below for the analysis.

For the more senior and junior tranches it will often be obvious, with relatively little analysis, whether the tranche is less risky (or more risky) than the underlying pool of assets, by reference to its yield; subordination; and possibility of loss for the investor, for example an obligation to make good credit losses in the vehicle.

For those tranches where more analysis is required, developing detailed credit loss scenarios for the underlying pool and the effect that these would have on the tranches held for meeting this test for the other tranches is likely to be unduly complex. A more practical approach, therefore, would be to use the reporting entity's internal or external credit assessment of the tranche as the basis of this test. This would be supported by the assumption that any tranche rated above a specific defined midpoint credit assessment would be assumed to meet the test. This assumption would be periodically reviewed and revalidated and could be reviewed as part of the audit work as well. If such credit assessments are not available, a comparison could be made of the losses incurred in the underlying pool of collateral versus the expected losses in each tranche. The sources for this information may include investment analyst or rating agency research.

Further indicators to consider might be the existence of guarantees to other tranches, returns on the tranche which are significantly different from the average return on the portfolio, or subordinations.

Where it cannot be demonstrated that the tranche does not contain leverage it would be measured at FVPL.

Appendix C provides examples to illustrate the expecting outcome of such an approach to typical securitized assets.

Conclusion

It is the IIF SAG view that IFRS 9 as written requires the application of judgment in applying the “look-through test” for contractually linked instruments. It does not mandatorily require that each individual transaction in the underlying asset pool is scrutinized in detail on an instrument-by-instrument basis. Where available, reference should be made to the constituent documents as a basis for determining the nature and form of such transactions, and other readily available information should be fully considered. Assumption applied to similar instruments would be periodically tested and reaffirmed. The application of IFRS 9 in this way would form part of entities’ interpretation and application of the requirements which would be documented as such and agreed with their auditors. The detail of such an approach would not be expected to form part of the underlying accounting standard.

The IIF SAG therefore recommends that a minor clarification of B4.1.25 (and 825-10-55-27) would suffice to confirm that the look-through test does not necessarily require the assessment of each single financial instrument and that a judgment based approach is appropriate to identify whether the requirements in B4.1.23 and B4.1.24 have been met. Some wording to that effect can be added in the application guidance of the eventual standard.

“In performing the look-through approach, a detailed instrument-by-instrument analysis of the pool may not be necessary. Sufficient analysis needs to be performed using appropriate judgment and to determine whether the instruments in the securitization satisfy the requirements of B4.1.23 and B4.1.24. Evidence as to whether such instruments meet the SPPI requirement can be obtained through alternative means. Such means include all available sources of information regarding the underlying terms that the contractually linked structure was designed to create, including some or all of, the prospectus or other issuing documents; the financial statements of the issuer; the investment mandate of the issuer; the structure of the issuer and the presence of instruments which introduce or diminish the risks in the vehicle, including interest term mismatches; the preponderance of junior tranches that may absorb losses; the ranking of the security in the structure’s waterfall; and the performance of the asset pool.”

Your attention to these considerations is much appreciated. Should you have any comments or questions on this letter, please contact the undersigned or Veronique Mathaud (vmathaud@iif.com; +1 202 682 7456).

Very truly yours,



Appendix A: Excerpts from IASB and FASB requirements.

IFRS 9 references	FASB – references
<p><i>Contractually linked instruments</i></p> <p>B4.1.20 In some types of transactions, an entity may prioritize payments to the holders of financial assets using multiple contractually linked instruments that create concentrations of credit risk (tranches). Each tranche has a subordination ranking that specifies the order in which any cash flows generated by the issuer are allocated to the tranche. In such situations, the holders of a tranche have the right to payments of principal and interest on the principal amount outstanding only if the issuer generates sufficient cash flows to satisfy higher-ranking tranches.</p> <p>B4.1.21 In such transactions, a tranche has cash flow characteristics that are payments of principal and interest on the principal amount outstanding only if:</p> <ul style="list-style-type: none"> (a) the contractual terms of the tranche being assessed for classification (without looking through to the underlying pool of financial instruments) give rise to cash flows that are solely payments of principal and interest on the principal amount outstanding (eg the interest rate on the tranche is not linked to a commodity index); (b) the underlying pool of financial instruments has the cash flow characteristics set out in paragraphs B4.1.23 and B4.1.24; and (c) the exposure to credit risk in the underlying pool of financial instruments inherent in the tranche is equal to or lower than the exposure to credit risk of the underlying pool of financial instruments (for example, this condition would be met if the underlying pool of instruments were to lose 50 per cent as a result of credit losses and under all circumstances the tranche would lose 50 per cent or less). <p>B4.1.22 An entity must look through until it can identify the underlying pool of instruments that are creating (rather than passing through) the cash flows. This is the underlying pool of financial instruments.</p> <p>B4.1.23 The underlying pool must contain one or more instruments that have contractual cash flows that are solely payments of principal and interest on the principal amount outstanding.</p> <p>B4.1.24 The underlying pool of instruments may also include instruments that:</p> <ul style="list-style-type: none"> (a) reduce the cash flow variability of the instruments in paragraph B4.1.23 and, when combined with the instruments in paragraph B4.1.23, result in cash flows 	<p>Application to Beneficial Interests in Securitized Financial Assets</p> <p>825-10-55-26 A beneficial interest in a securitized financial asset gives rise to contractual cash flows that are solely payments of principal and interest on the principal amount outstanding if all of the following conditions are met:</p> <ul style="list-style-type: none"> a. The contractual terms of the beneficial interest being assessed for classification (without looking through to the underlying pool of financial instruments) give rise to cash flows that are solely payments of principal and interest on the principal amount outstanding (for example, the interest rate on the beneficial interest is not linked to a commodity index). A tranche is deemed to satisfy this condition if it otherwise would have payments that are solely principal and interest but is prevented from meeting this requirement solely because it is prepayable if a prepayment occurs in the underlying pool. b. The underlying pool of financial instruments has the following cash flow characteristics: <ul style="list-style-type: none"> 1. The underlying pool is required to contain one or more instruments that have contractual cash flows that are solely payments of principal and interest on the principal amount outstanding. 2. The underlying pool also may include instruments that do either of the following: <ul style="list-style-type: none"> i. Reduce the cash flow variability of the instruments in (b)(1) and, when combined with the instruments in (b)(1), result in cash flows that are solely payments of principal and interest on the principal amount outstanding (for example, an interest rate cap or floor or a contract that reduces the credit risk on some or all of the instruments in (b)(1)) ii. Align the cash flows of the tranches of beneficial interests with the cash flows of the pool of underlying instruments in (b)(1) to address differences in and only in any of the following: <ul style="list-style-type: none"> 1. Whether the interest rate is fixed or floating 2. The currency in which the cash flows are denominated, including inflation in that currency 3. The timing of the cash flows. <p>An entity must look through until it can identify the underlying pool of instruments that are creating, rather than passing through, the cash flows. This is the underlying pool of</p>

that are solely payments of principal and interest on the principal amount outstanding (e.g., an interest rate cap or floor or a contract that reduces the credit risk on some or all of the instruments in paragraph B4.1.23); or
(b) align the cash flows of the tranches with the cash flows of the pool of underlying instruments in paragraph B4.1.23 to address differences in and only in:
(i) whether the interest rate is fixed or floating;
(ii) the currency in which the cash flows are denominated, including inflation in that currency; or
(iii) the timing of the cash flows.

B4.1.25 If any instrument in the pool does not meet the conditions in either paragraph B4.1.23 or paragraph B4.1.24, the condition in paragraph B4.1.21(b) is not met.

B4.1.26 If the holder cannot assess the conditions in paragraph B4.1.21 at initial recognition, the tranche must be measured at fair value. If the underlying pool of instruments can change after initial recognition in such a way that the pool may not meet the conditions in paragraphs B4.1.23 and B4.1.24, the tranche does not meet the conditions in paragraph B4.1.21 and must be measured at fair value.

financial instruments that (b) refers to.

- c. The exposure to credit risk in the underlying pool of financial instruments that are inherent in the tranche of beneficial interest is equal to or lower than the exposure to credit risk of the underlying pool of financial instruments. For example, this condition would be met if the underlying pool of instruments were to lose 50 percent as a result of credit losses and under all circumstances the tranche would lose 50 percent or less.

825-10-55-27 If the holder of a beneficial interest in securitized financial assets cannot assess the criteria in the preceding paragraph at recognition, the beneficial interest must be measured at fair value with all changes in fair value recognized in net income. Furthermore, if the underlying pool of financial instruments can change after recognition in such a way that the pool may not meet the criterion in (b) of the preceding paragraph, the beneficial interest must be measured at fair value with all changes in fair value recognized in net income. However, if the underlying pool includes instruments that are collateralized by assets that do not meet the criterion in (b) of the preceding paragraph, the collateral shall be disregarded for the purposes of applying this paragraph

Definition of principal

The IASB and the FASB discussed the meaning of 'principal' for the purposes of the application of the solely P&I condition. The boards tentatively decided that principal should be described as the amount transferred by the holder for the financial asset on initial recognition.

Fifteen IASB members and seven FASB members agreed. One IASB member was absent.

Meaning of interests

The IASB and the FASB discussed the meaning of 'interest' for the purposes of the application of the solely P&I condition, including the meaning of 'time value of money' and the application of that concept to regulated interest rates, and tentatively decided to clarify the meaning of interest. Specifically, the boards tentatively decided:

1. to clarify that *de minimis* features should be disregarded for classification;
2. to emphasize the underlying conceptual basis for the solely P&I condition – that is, the notion of a basic lending-type return;
3. to confirm that time value of money and credit risk are typically the most significant components of a basic lending-type return however not the only possible components;
4. to clarify that a basic lending-type return also generally includes consideration for liquidity risk, profit margin and consideration for costs associated with holding the financial asset over time (such as servicing costs);
5. to emphasize what are not the components of a basic lending-type return and why (for example, indexation to equity prices); and
6. To clarify the meaning of the time value of money, specifically:
 - a. to clarify the objective of the consideration for the time value of money—that is, to provide consideration for *just* the passage of time, absent return for other risks and costs associated with holding the financial asset over time;
 - b. to articulate the factors relevant to providing consideration for the passage of time—notably, the tenor of the interest rate and the currency of the instrument;
 - c. to clarify that both qualitative and quantitative approaches could be used to determine whether the interest rate provides consideration for just the passage of time, if the time value of money component of the interest rate is modified (for example, by an interest rate tenor mismatch feature) but do not prescribe when each approach should be used; and
 - d. to not allow a fair value option in lieu of the quantitative assessment.

Fifteen IASB members and seven FASB members agreed. One IASB member was absent.

The IASB also tentatively decided to provide guidance on how the quantitative assessment of a financial asset with a modified time value of money component should be performed – that is, by considering the contractual (undiscounted) cash flows of the instrument relative to the benchmark instrument – and to replace the 'not more than insignificant' threshold in the boards' proposals by the 'not significant' threshold (that is, a financial asset with the modified time value of money component of the interest rate would meet the solely P&I condition if its contractual cash flows could not be significantly different from the benchmark instrument's cash flows).

Fifteen IASB members agreed. One IASB member was absent.

Appendix C: Examples

Included in Appendix C are some typical investments in securitizations and an outline of how the IIF proposal for the portfolio test, having regard to the purpose and design of the entity would affect the treatment of the instrument.

Example	Current Proposal*	Primary Reason	Proposal
<p>Agency pass-through while pass-through securities with principal and interest guaranteed by a U.S. Government Sponsored Enterprise or Agency. A pass-through security is backed by assets or debt; in an agency pass-through security, a GSE or agency reduces the risk of default to the pass-through holder by guaranteeing payment. The tranche is purchased at a discount to par and underlying instruments contain prepayment features at par.</p>	<p>Strictly applied – Fail SPPI - FVPL</p>	<p>The purchase price means that the return on the tranche may be not SPPI in the event of a prepayment. Depending on the level of the discount, the discount might be assessed as more than reasonable. Note that the underlying mortgage would pass SPPI.</p>	<p>The proposal would require to look to the terms of the instrument and the purpose and design of the vehicle plus current market indicators of performance and credit risk which is to pass on the risks of a portfolio that passes SPPI test – Amortized Cost</p>
<p>AAA CMBS with REO (secondary market). The vehicle is allowed to repossess and hold property acquired in enforcement actions.</p>	<p>Strictly applied – Fail SPPI - FVPL</p>	<p>Real estate acquired in enforcement action does not meet SPPI. However, this is a normal part of the collection cycle, and will often be immaterial to the pool such that the impact on the underlying credit risk of the securities is insignificant. All but junior tranches would therefore not be subject to market risk on the real estate. Furthermore, where the underlying asset is considered wholly as collateral and the investor can recover no more than principal, accrued interest and reasonable costs (and no more) with any surplus through property disposal being returned , the SPPI test will likely be passed</p>	<p>Looking at the information on the underlying pool it might be reasonably possible to assess that not all instruments would meet the SPPI criteria. However, the variability of the cash flows does not result from anything different to interest and credit risk, with the underlying collateral before enforced on default and enabling the investor to recover outstanding amounts only. Holding the asset after a write</p>

			<p>off of a loan is common for vanilla loan and therefore treating a loan at other than amortized cost where underlying collateral can be enforced to recover up to amounts outstanding, would be inappropriate. The existence of this right should not call into question the nature of the underlying cash flows.</p> <p>Materiality considerations apply in determining whether the risk posed by real estate is significant enough to question whether the SPPI test is met.</p>
<p>AAA RMBS – 1/1000 loans has reset mismatch Non-agency mortgage-backed securities are issued by private institutions (not by governmental or quasi-governmental agencies); their underlying collateral generally consists of mortgages which do not conform to the requirements (size, documentation, loan-to-value ratios, etc.) for inclusion in mortgage-backed securities issued by agencies such as GinnieMae, Fannie Mae or Freddie Mac.</p>	<p>Strictly applied – fail, may be considered <i>de minimis</i></p>	<p>Some of the loans would fail SPPI due to the reset mismatch. However the terms of the tranche do not and the securities themselves are high enough in the waterfall for the features not to affect the cash flows from the security</p>	<p>If loan reset feature is <i>de minimis</i> the asset would not fail the SPPI test.</p> <p>Amortized Cost</p>
<p>AAA BI in CDO. Collateral includes loans which have lender option / borrower options on interest rates. Cash from redemptions is able to be</p>	<p>Strictly applied – Fail SPPI - FVPL</p>	<p>The loans themselves will most likely fail SPPI where the economic value of the option is significant. Cash in the structure does meet SPPI.</p>	<p>All conditions of the CDO would have to be studied to determine whether the assets are homogeneous enough to</p>

reinvested.			be classified at amortized cost. FVPL or amortised cost.
AAA BI in credit card securitisation The beneficial interests are secured by a pool of credit card shopping receivables and credit card cash advance receivables (hereafter, collectively referred to as "credit card receivables") originated under credit card agreements	Pass or fail SPPI test.	The issue is this inclusion in the asset pool cash flows of fees and other charges for services which are not SPPI (and not included in EIR). However, these fees result in principal and interest, which does meet SPPI. If fees did not go to the underlying pool, then likely the SPPI test would be passed – hence amortized cost; “penalty fees” could also be regarded as interest to the extent that they relate to a perception of higher credit risk and the charge compensates accordingly	The asset would most likely fail, if “noncredit” related fees earned.
First loss in ABS 2 tranches with nominal first loss first loss wrapped backed by high quality many tranches	Fail SPPI - FVPL	BI fails credit test – the design of the entity is that these tranches are equity like.	Still FVPL
I/O strip from securitization notes: Adjustable rate mortgages where the borrower pays no principal for a set period of time, until the mortgage is reset to a fully amortizing base.	Fail SPPI - FVPL	BI fails SPPI test due to (e.g.) prepayment risk	Still FVPL
AAA BI in synthetic (CDS)	FVPL	Underlying fails SPPI.	Still FVPL