From: Paul Lawrence [mailto:paul@lawrence-firm.com]

Sent: Wednesday, June 16, 2010 8:45 PM

To: Ron Bossio

Cc: Jill Switter; Ron Lott; Joe Damico; John Richter **Subject:** RE: FAS 150 & Cooperative Organizations

Ms. Switter & Mr. Lott:

I have gotten more up-to-date and see that the staff on May 6, 2010, proposed a specific decision rule for cooperatives in response to the many comments received from cooperatives on the Preliminary Views document of Nov. 30, 2007. I am referring to item 3 (b) on page 2 of the minutes of the May 6, 2010, board meeting. I note in paragraph 7 that Mr. Herz asked how an instrument redeemable upon the holder's death or retirement would be classified when the event occurs and that Mr. Lott responded to that question.

A fundamental problem that I have with the financial reporting of cooperatives is that they do not distinguish between instruments held by current and former members, yet former-member capital sometimes comprises 30 to 50% of total equity and constitutes an obligation of the cooperative. Persons dealing with the cooperative have no way of knowing this and are, in fact, misled by the treatment of former-member capital as equity of the business when in fact it is an obligation owed to the former members who no longer have any relationship with the cooperative, cannot vote in elections or obtain financial information from it, and receive no compensation for the cooperative's use of their capital, sometimes for decades.

Although the board of the cooperative may have to declare a redemption before such former-member equity technically becomes a debt immediately due and payable, fiduciary duties of the cooperative require that such a redemption be declared as soon as the cooperative's financial condition makes it possible to do so and the board also has a fiduciary obligation to obtain new capital from current members so that it will have the financial ability to declare such a redemption. If the cooperative is not able to immediately return former-member capital upon the occurrence of a redemption event, I believe it has a fiduciary duty to pay interest for the use of that capital. Many cooperatives do none of these things and face what I believe to be significant legal exposure for that reason.

To continue treating the obligation owed to former members as equity of the same class as current-member capital is, to say the least, highly misleading and something I cannot imagine that the FASB would wish to encourage or countenance.

This is a very large problem that cooperatives would like to sweep under the rug. They have been very attentive in their comments to the board's proposals because they have a big problem and know it. The problem is that cooperatives have mostly "temporary" as opposed to "permanent" equity capital, which makes them weaker financially than investor-owned businesses with permanent equity (what you refer to as "perpetual" instruments). This is a basic flaw or weakness of the cooperative business model that should not be white-washed over with deceptive financial reporting. If cooperatives cannot obtain the equity capital they require from their current members, then the idea of a business capitalized by its patrons rather than by investors is not a viable one.

I fear that the FASB may inadvertently enable misleading financial reporting unless it is very specific about how category 3 (b) instruments are to be treated once the events occur that make the instruments subject to redemption. I would suggest you study this matter carefully before releasing your Exposure Draft because you will once again be deluged with comments from cooperatives attempting to convince you that they really do have lots of equity capital when what they really have is significant legal exposure to former members.

Paul Lawrence