

STATE OF NEW YORK BANKING DEPARTMENT ONE STATE STREET PLAZA NEW YORK, NY 10004

March 30, 2011

Ms. Susan M. Cosper Technical Director Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116

Re: File Reference No. 2011-150

By email

Dear Ms. Cosper:

The New York State Banking Department has reviewed the Financial Accounting Standards Board's Supplementary Document, "Financial Instruments: Impairment," and we appreciate the opportunity to provide our overall thoughts and responses to selected questions.

We thank the FASB and the IASB for listening to respondents' suggestions to work together to issue this document, and we encourage the boards to reach a common solution with a common scope. Overall, we agree with the proposal, which we consider a reasonable compromise, though we have made suggestions to simplify the accounting and enhance comparability.

Question 1: Do you believe the proposed approach for recognition of impairment described in this supplementary document deals with this weakness (ie delayed recognition of expected credit losses)? If not, how do you believe the proposed model should be revised and why?

We agree that the proposed approach should result in earlier recognition of expected credit losses, which should be helpful in addressing this highly judgmental area.

Question 2: Is the impairment model proposed in the supplementary document at least as operational for closed portfolios and other instruments as it is for open portfolios? Why or why not? Although the supplementary document seeks views on whether the proposed approach is suitable for open portfolios, the boards welcome any comments on its suitability for single assets

and closed portfolios and also comments on how important it is to have a single impairment approach for all relevant financial assets.

It is very important to have a consistent impairment approach for all relevant financial assets. The proposed impairment model with our suggested revisions should be at least as operational for other financial assets, since single assets and closed portfolios are simpler categories than open portfolios.

Question 3: Do you agree that for financial assets in the 'good book' it is appropriate to recognize the impairment allowance using the proposed approach described above? Why or why not?

We agree with the "good book"/"bad book" approach with the modifications suggested and explained in our following answers.

Question 5: Would the proposed approach provide information that is useful for decision-making? If not, how would you modify the proposal?

The proposed approach should provide information useful for decision-making. Our suggested revisions enhance its usefulness since comparability between institutions is an important aspect of user needs, especially for regulators who identify outliers against their peer groups. Our suggested revisions allow significant judgment to be used by preparers, external auditors, and regulators, while establishing a more consistent framework in which to make such judgments.

Question 6: Is the proposed requirement to differentiate between the two groups (ie 'good book' and 'bad book') for the purpose of determining the impairment allowance clearly described? If not, how could it be described more clearly?

The differentiation between the "good book" and "bad book" is left to each institution's credit risk management, which may result in significant divergences in application. The varying abilities of different institutions' credit risk managements have been seen in recent years. The language of paragraph 3 (i.e., "collectibility . . . becomes so uncertain") opens the door for overly-optimistic (and possibly troubled) institutions to include few or no financial assets in the "bad book." We suggest the creation of a more objective benchmark for differentiating between the two books, namely that inclusion in the "bad book" be required for nonperforming financial assets, with this term being clearly defined.

Question 7: Is the proposed requirement to differentiate between the two groups (ie 'good book' and 'bad book') for the purpose of determining the impairment allowance operational and/or auditable? If not, how could it be made more operational and/or auditable?

The establishment of a more objective benchmark to differentiate between the "good book" and the "bad book" (as we suggested in our answer to Question 6) should make the impairment allowance more operational and auditable.

Question 8: Do you agree with the proposed requirement to differentiate between the two groups (ie 'good book' and 'bad book') for the purpose of determining the impairment allowance? If not, what requirement would you propose and why?

We agree with the differentiation between the two books. While it is tempting to suggest applying the measurement requirement for the "bad book" to all relevant financial assets, this would likely lead to an overstatement of losses in earlier periods, thereby creating an earnings mismatch.

Question 9: The boards are seeking comment with respect to the minimum allowance amount (floor) that would be required under this proposed model. Specifically, on the following issues:

(a) Do you agree with the proposal to require a floor for the impairment allowance related to the 'good book'? Why or why not?

We agree with the establishment of a floor for the "good book." While the absence of a minimum allowance amount is more conceptually appealing, a floor requirement provides a practical and sensible approach to mitigate the unavoidable uncertainties in determining an appropriate allowance.

(b) Alternatively, do you believe that an entity should be required to invoke a floor for the impairment allowance related to the 'good book' only in circumstances in which there is evidence of an early loss pattern?

No; see our answer to Question 9(a).

(c) If you agree with a proposed minimum allowance amount, do you further agree that it should be determined on the basis of losses expected to occur within the foreseeable future (and no less than twelve months)? Why or why not? If you disagree, how would you prefer the minimum allowance to be determined and why?

We recommend that the floor be defined as credit losses expected to occur within the next twelve months. This provides a consistent approach to enhance comparability and avoids questionable attempts to define "foreseeable future" when experience indicates that the future is rarely foreseeable.

(d) For the foreseeable future, would the period considered in developing the expected loss estimate change on the basis of changes in economic conditions?

No; see our answer to Question 9(c).

(e) Do you believe that the foreseeable future period (for purposes of a credit impairment model) is typically a period greater than twelve months? Why or why not? Please provide data to support your response, including details of particular portfolios for which you believe this will be the case.

See our answer to Question 9(c).

(f) If you agree that the foreseeable future is typically a period greater than twelve months, in order to facilitate comparability, do you believe that a 'ceiling' should be established for determining the amount of credit impairment to be recognized under the 'floor' requirement (for example, no more than three years after an entity's reporting date)? If so, please provide data and/or reasons to support your response.

See our answer to Question 9(c). If a final standard permits a period longer than twelve months, a time limit should be established to improve comparability and recognize that future speculation becomes less reliable as time progresses.

Question 11: The boards are seeking comment with respect to the flexibility related to using discounted amounts. Specifically, on the following issues:

(a) Do you agree with the flexibility permitted to use either a discounted or undiscounted estimate when applying the proposed approach described in paragraph B8(a)? Why or why not?

We disagree with the flexibility allowed in using either a discounted or an undiscounted estimate. In order to enhance comparability, we suggest that the boards choose a single approach. While a discounted approach is more conceptually supportable, we recommend using an undiscounted approach for simplicity and applicability to institutions of all sizes. In this same vein, we suggest only allowing use of the straight-line approach.

(b) Do you agree with permitting flexibility in the selection of a discount rate when using a discounted expected loss amount? Why or why not?

See our answer to Question 11(a). If discounting is permitted, we suggest that the standard clearly specify the type of rate to be used. Otherwise, the flexibility to use various rates increases divergences in application and reduces comparability between institutions.

Question 12: Would you prefer the IASB's approach for open portfolios of financial assets measured at amortized cost to the common proposal in this document? Why or why not? If you would not prefer this specific approach, do you prefer the general concept of the IASB's approach (ie to recognize expected credit losses over the life of the assets)? Why or why not?

In order to establish a common standard on the key issue of impairment, the boards have reached a reasonable compromise while ensuring that aspects of their primary objectives have been met. Since the boards have met this benchmark, they should avoid undercutting the proposed approach by revisiting their earlier conclusions, which may well lead to diverging standards.

We also suggest that a final common standard continue to "decouple" interest income and credit impairment, since we believe the separation of these two areas provides better information.

Question 13: Would you prefer the FASB's approach for assets in the scope of this document to the common proposal in this document? Why or why not? If you would not prefer this specific approach, do you prefer the general concept of the FASB's approach (ie to recognize currently credit losses expected to occur in the foreseeable future)? Why or why not?

See our answer to Question 12.

If you would like to discuss our letter, please call me at (212) 709-1532 or email me at john.mcenerney@banking.state.ny.us.

Very truly yours,

John McEnerney Chief of Regulatory Accounting