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Accounting Standards Update File Reference No. 2013-210, Transfers and Servicing (Topic 860), Effective Control for Transfers with Forward Agreements to Repurchase Assets and Accounting for Repurchase Financings

Credit Suisse Group (CSG) welcomes the opportunity to comment on the FASB's Accounting Standard Update 2013-210, Effective Control for Transfers with Forward Agreements to Repurchase Assets and Accounting for Repurchase Financings. CSG is registered as a foreign private issuer with the Securities and Exchange Commission and its consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States (US GAAP). We also have a number of subsidiaries that are required to apply International Financial Reporting Standards ("IFRS") to their stand-alone financial statements.

We welcome the Board's acknowledgement that the current derecognition model contains certain aspects where the accounting may diverge from the economic substance of a transaction. Furthermore, that the financial markets have evolved significantly from the issuance of FAS 125 in 1996 and the Board's efforts to address this and ensure the accounting standards remain relevant to the current environment. However, we also note that the Board intend to undertake a full reconsideration of the derecognition model under US GAAP. Accordingly, we believe this context should be reflected in any update and in particular the requirements placed upon users. We also consider that for users of the financial statements it is likely to be confusing and unhelpful to have two significant divergences in both the amounts reflected in the financial statements, the rules and disclosures within a short period of time and believe the transition and disclosure provisions should be cognizant of this.

We would encourage the Board to continue the project to reconsider the derecognition model for financial instruments in full and to do so as part of the convergence project with the IASB.

The following pages provide detailed responses to the questions set out in the draft Interpretation and other aspects we would request that the Board take into consideration. We would welcome the opportunity to discuss our comments with you at your convenience. If you have any questions or would like to receive additional information on the comments we have provided herein, please do not hesitate to contact Todd Runyan in Zurich on +41 44 334 8063 or Tom Nightingale in London on +44 20 788 36797.

Sincerely,

Rudolf Bless

Managing Director Deputy CFO and Chief Accounting Officer 1. A. Nightmejole

Tom Nightingale Vice-President Accounting Policy and Assurance Group

Questions for All Respondents

Question 1: This proposed Update would amend the effective control guidance in paragraphs 860-10-40-5(c)(1) and 860-10-40-24 to require that transactions that involve a transfer of a financial asset with an agreement that both entitles and obligates a transferor to repurchase or redeem the transferred asset at the maturity of the transferred financial asset would maintain the transferor's effective control. Therefore, those transactions would be accounted for as a secured borrowing. Do these proposed amendments represent an improvement in financial reporting?

Where an asset is transferred and will not be returned for the rest of its remaining life (i.e. repo to maturity), it is highly likely that effective control over that asset has been transferred. Therefore, the guidance represents a significant divergence from the effective control model and changes the focus to a risks and rewards model.

We acknowledge that transactions of this nature tend to represent a financing transaction from an economic perspective. It is noted that the assets or liabilities that arise could be fair value option elected and therefore any entity risk managing these on a fair value basis would still be able to reflect this within their financial statements. However, the nature and amount of the transactions will be substantially changed as a result of the guidance including the recognition of interest within the profit and loss account rather than just trading gains and losses on a derivative.

Accounting for repos to maturity as secured financing can be considered reasonable and appropriate in the financial statements. This is with the caveat that this guidance is not considered a final standard but only a stopgap measure whilst the entire model for the derecognition of financial instruments is reconsidered as a whole to ensure it is a consistent and integrated model. At present the ASU would lead to a mix of both effective control and risks and rewards models but without a consistent and clearly intended hierarchy applied to all transactions and situations. We do not consider this is an appropriate situation that should persist over a sustained period of time even if the rationale for the changes is understood and will typically result in a presentation that does not diverge from the economics of the transaction.

Question 2: Do you agree with the limited amendment of the condition for derecognition related to effective control in paragraphs 860-10-40-5(c) and 860-10-40-24? That is, do you agree with the application of secured borrowing accounting to the transactions described in Question 1 and not to other transactions resulting in similar risks and rewards for the transferor (for example, regardless of the form of settlement or whether the settlement date of the repurchase agreement is before, on, or after the maturity date of the transferred financial assets)? If not, what approach for assessing derecognition for transactions that involve transfers of financial assets with agreements that entitle and obligate the transferor to repurchase or redeem the transferred assets would be an improvement to the proposed approach?

The scope set out by the proposed paragraphs 860-10-40-5(c) and 860-10-40-24 is not considered sufficiently clear that it can be applied correctly and consistently by preparers. The impression given by this question and the basis for conclusions is that the scope is narrow and the types of agreement captured are clear. It is possible to interpret from the basis of conclusions is that the reader is intended to only apply this to repo and stock lending agreements.

The actual wording used in paragraph 860-10-40-24 can be interpreted to apply the guidance very broadly to a wide range of legal agreements. It is also noted that the wording is not significantly different to the existing wording which has been interpreted by many preparers as applying more widely than to just repo and stock lending agreements. The basis of conclusion therefore proposes a significant change in accounting which we believe was unintended and could therefore lead to many economically similar transactions no longer being accounted for, appropriately in our opinion, as secured financing and diversity in practice between preparers.

As an example, many total return swaps that are used for funding purposes incorporate an initial exchange of cash for a security and the opposite for the final exchange upon maturity within a single agreement. This is particularly the case where the transaction is conducted with the intention of providing secured financing but for whatever reason the counterparties have an ISDA agreement but not a GMRA agreement. We are not clear whether such an agreement could be considered to be within the scope. At the same time, it is possible to have a virtually the same transaction but with the initial transfer in a separate sale agreement and not within the TRS agreement. The latter transaction applying the basis for conclusions would be out of scope but the first would still be included. Further confusion is applied by the guidance for an initial transfer and a repurchase agreement which prohibits combining such transactions as a "linked transaction". However, it is noted that ASC 860-10-40-24 d still includes the condition that the agreement is entered into contemporaneously or in contemplation of the initial transfer.

CSG support the proposal to remove the guidance on the maturity of the transferred asset. However, we do not support any additional changes to the scope of ASC 860-10-40-24 as a consequence of this proposed accounting standard update unless conducted as part of a full reconsideration of the entire derecognition model. Accordingly, we strongly recommend that that Board clarify the scope in any final Accounting Standard Update.

Question 3: This proposed Update would require that an initial transfer and a repurchase agreement that relates to a previously transferred financial asset between the same counterparties that is entered into contemporaneously with, or in contemplation of, the initial transfer (a repurchase financing) be accounted for separately. Would separate accounting for the initial transfer and repurchase financing reflect the economics of those agreements? Do these proposed amendments represent an improvement in financial reporting?

We understand the Boards intention to ensure the repurchase agreement is accounted for as a secured financing transaction. As a limited amendment whilst a full consideration of the entire derecognition model is undertaken, we do not object to this proposal.

We do believe that by making such an amendment, it is necessary that the Board should re-consider and clarify when and if transactions involving and sale and agreement to repurchase should be considered and accounted for as a linked transaction not only on those related to such a repurchase financing but also in all instances.

In particular whether this guidance is intended to be applied in isolation to this specific scenario or whether preparers should not apply linked transaction guidance to any similar transactions. We believe the former approach is appropriate and the latter would represent a significant and inappropriate change to existing accounting without a proper reconsideration of the entire derecognition model.

Substantially the Same

Question 4: The Board affirmed that, consistent with existing guidance, effective control would be maintained by a transferor if the transferee returns a financial asset that is —substantially the same as the initially transferred financial asset. Should the return of financial assets that are substantially the same maintain the transferor's effective control over transferred financial assets? Why or why not?

Under a pure control model only the return of identical assets would be appropriate.

However, this proposed guidance reflects that a type of risks and rewards approach is being applied and is consistent with the way that repo transactions work in practice. It is considered appropriate to have a concept of substantially the same. We also understand the Board's desire to delink industry guidance from an accounting standard to ensure the accounting could not be impacted by a change in industry guidance.

However, we are concerned that there are two critical points that are not clearly addressed within this guidance.

Firstly, we consider that the assessment of derecognition should be made upon a transfer of financial asset and should not be reconsidered unless there is a new transaction of change in the legal terms of any continuing involvement. This is not clearly stated in the guidance and we consider this ASU would be an appropriate opportunity to clarify the position.

Secondly, given that the concept of substantially the same is one which takes into account the economics of the transaction, we are concerned that the amendments to this guidance will be read in an overly prescriptive manner rather than by applying appropriate professional judgement to the overall position. In particular, we consider that it is more appropriate for an entity to consider the economic intent of the transaction rather than follow a checklist of criteria to determine what is substantially the same. For instance, we would identify a difference between the following transactions:

- 1. A transaction conducted for the economic intention of financing and are priced such that the cash lender receives back their principal and an appropriate return for interest secured on some assets; versus
- 2. A transaction where the asset transferor acts on a trading basis with the intent of selling certain assets now to monetize a gain attributed to the quality and simultaneously enters into a transaction to acquire similar assets but of an average or "cheapest to deliver nature". In this case, the second leg of the transaction is priced accordingly such that the future cash payment is lower than the sale price at the outset. It is common in such transaction that the transferor does not pay to the transferee the economics of the transferred assets nor receive a return which would be reflective of a market interest rate.

Given the differing nature of the above transactions which might on the face of it look very similar, we believe it is more important that an entity considers all the relevant factors and the "substantially the same" characteristics should be considered in entirety rather than as a checklist to be met in full. We do not consider that the additional guidance of ASC 860-10-55-35 given by the ASU improves the assessment of what is substantially the same by preparers. We would also urge the Board to pre-empt this guidance with the caveat that all factors and the judgement should be considered in determining whether the assets to be returned are substantially the same based on the indicators as a whole. For instance, where the transaction economics do not reflect a financing, the transaction should not be accounted for as such simply because assets to be acquired at a later date are substantially the same.

Furthermore, we are concerned about the guidance introduced in ASC 860-10-55-51A e regarding Cash-settled repurchase agreements. Such terms are generally not included within typical repo agreements at present. However, we are concerned that this provision could encourage transactions structured to include these terms and be accounted for as a sale and derivative even if the economic intent is to provide financing. We consider this to be inconsistent with the intent of this proposed Accounting Standards Update to generally account for agreements to sell and subsequently repurchase assets as secured financing. We would recommend the removal of this paragraph and that the Board consider this type of agreement fully as part of their full reconsideration of the derecognition model.

Question 5: The Board decided that the characteristics that must be satisfied for a financial asset to be substantially the same in paragraph 860-10-40-24A should result in identifying those transactions in which a transferor is in economically the equivalent position with the return of a substantially-the-same asset compared with the return of the identical asset. Do the proposed amendments to the substantially-the-same characteristics help clarify how those characteristics should be applied? If not, what additional clarifications are needed? Does the implementation guidance related to the substantially-the-same characteristics in paragraph 860-10-55-35 provide appropriate clarifications related to the characteristics and their application? Is the implementation guidance operable? If not, what additional guidance is needed?

Please refer to our response above in Question 4. We do not consider the clarifications in ASC 860-10-55-35 would be useful guidance if interpreted in a checklist style manner. We believe that if substantially-the-same is a concept based upon the economic substance of a transaction it should only be applied where the economics of a transaction on balance reflect that of a secured financing.

Disclosures

Question 6: The Board decided that for transfers with agreements that both entitle and obligate the transferor to repurchase transferred financial assets that maintain a transferor's effective control and are accounted for as secured borrowings, the transferor should disclose the gross amount of the total borrowing disaggregated on the basis of the class of financial assets pledged as collateral. Would this proposed disclosure provide decision-useful information? If not, what disclosures, if any, about these transactions should be required and why?

It is not clear how much benefit users would obtain from these disclosures which could not be obtained from a short explanatory note of the types of secured borrowing an entity undertakes and which activity is material. Accordingly, the operational burden to produce these disclosures seems disproportionate to the benefit that a user would obtain.

It is not considered that this provides additional useful information over the current disclosures with regards to collateral that an entity has pledged as collateral.

We would ask the Board to consider whether the additional work of compiling this information is warranted when the rules on derecognition are to be reconsidered as a whole and this could change the disclosures and comparatives in the foreseeable future. We believe it would be better to reconsider the derecognition model in full and reassess what are the appropriate disclosures that would benefit users as a specific part of this consideration without introducing further disclosures as a consequence of this ASU.

Question 7: The Board decided that for transfers with agreements that both entitle and obligate a transferor to repurchase transferred financial assets that are accounted for as sales and forward repurchase agreements solely because the asset to be reacquired is not substantially the same as the initially transferred asset, the transferor should disclose the carrying amount of assets derecognized during the reporting period. Would this proposed disclosure provide decision-useful information? If so, should the scope of this proposed disclosure requirement be expanded to explicitly include all transfers of financial assets with agreements to repurchase the transferred assets that are accounted for as sale transactions? What additional information about those transactions, if any, should be disclosed?

The amount of cost and time required to prepare such a disclosures is significant, whereas the level of benefit that a user would obtain is considered relatively small. The disclosure largely appears to reflect concerns over whether or not the derecognition guidance will reach the right conclusion and therefore acting as a "catch-all" just in case any transactions are missed. It would be better if the FASB ensure that the guidance captures and accounts for all transactions which they believe would be correctly reflected as secured borrowing rendering this disclosure redundant.

We do not understand the rationale for only capturing transactions which are accounted for as sales and forward repurchase agreements because the asset to be reacquired is not substantially similar.

We fail to understand how a user would find this information useful compared to understanding all such transactions where they are accounted for as a sale and forward purchase agreement because this reflects the economics of the transactions.

As noted above we also have concerns over how the "substantially similar" guidance might be applied unless preparers can fully assess a transaction and account for financing transactions and those which are sales and a forward in accordance with their economic intent. As presented the disclosure appears arbitrary and of limited benefit to users in their assessment of an entity as a whole.

As for Question 6 we would ask the Board to consider whether the additional work of compiling this information is warranted when the rules on derecognition are to be reconsidered as a whole and this could change the disclosures and comparatives in the foreseeable future. We believe it would be better to reconsider the derecognition model in full and reassess what are the appropriate disclosures that would benefit users as a specific part of this consideration without introducing further disclosures as a consequence of this ASU.

Questions for Preparers and Auditors

Question 8: Do you foresee any significant operability or auditing issues in complying with the proposed disclosures?

The proposed disclosures create a large operational burden for preparers. They are new and do not tie up with any existing disclosures including for other GAAPs for multi-GAAP preparers. Accordingly, it will require us to change existing automated reporting systems and control processes solely for these disclosures. In the current economic environment these will lead to additional costs, time and require resources to be diverted away from other necessary projects.

It appears that the key intention for the disclosures is to be a "catch-all" for transactions such that if there is any divergence in application all transactions are captured and disclosed to users of the financial statements. CSG consider that this could be resolved by either limiting the scope such that there is a clear, prescriptive and limited scope for only certain transactions (e.g., legal form repos and stock lending) or clearer guidance on the application to all such agreements meeting the prescribed criteria regardless of legal form. The latter requires accountants and auditors to use professional judgement in the application and review of transactions. It might be considered that the latter gives the risk of a lack of comparability between preparers but is a consequence of exercising professional judgment.

As noted above in Questions 6 and 7 we would ask the Board to consider whether the additional work of compiling this information is warranted when the rules on derecognition are to be reconsidered as a whole and this could change the disclosures and comparatives in the foreseeable future. We believe it would be better to reconsider the derecognition model in full and reassess what are the appropriate disclosures that would benefit users as a specific part of this consideration without introducing further disclosures as a consequence of this ASU.

Transition and Effective Date Questions for All Respondents

Question 9: Do you agree with the transition provisions in this proposed Update? If not, why?

CSG understands the transition provisions given the rationale set out for the exposure draft and previous Board meetings.

However, we would note that previous changes to the accounting rules on the derecognition of financial assets have always been applied on a prospective basis. We do not consider the rationale set out is sufficient to warrant a different approach in this case and would recommend the Board apply a consistent approach in making the new guidance prospective only.

Question 10: Should early adoption be permitted? If not, why? Should this be the case for both public entities and nonpublic entities?

Given the significant change in accounting treatment CSG would support a specific universal adoption date for all entities and accordingly early adoption should not be permitted as this will lead to a significant lack of comparability between those firms as within our industry the user community will demand that all banks adopt the same standards in unison.

Question 11: Should the effective date be the same for both public entities and nonpublic entities? If not, why?

As noted above, CSG would prefer a specific universal adoption date for all entities