

August 5, 2010

The Honorable Timothy Geithner
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Financial Stability Oversight Council and “Mark to Market” Accounting

Dear Secretary Geithner:

The American Bankers Association (ABA)¹ respectfully requests that the Financial Stability Oversight Council, in accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act,² examine the impact of a recent accounting proposal that will have a significant impact on the financial system. “Fair value accounting” (also known as “mark to market accounting”) is being proposed by the Financial Accounting Standards Board (FASB) for all financial instruments.³ For banking institutions, whose primary assets and liabilities are financial instruments, such accounting could dramatically change banking products and services as well as change how banking institutions are viewed by shareholders, depositors, and regulators.

The FASB’s proposal will:

- Dramatically decrease the relevance of the traditional banking business model, resulting in increased costs and volatility, and significantly reducing the availability of credit.
- Decrease the ability of investors, regulators, and bank customers to understand the business of banking, due to the focus on estimates of the market’s perception of value rather than the cash value to the bank.
- Put U.S. companies at a competitive disadvantage compared with international competitors.
- Disrupt efforts toward international convergence in a significant way, because financial instruments accounting tends to be the focal point of many accounting rules.

¹ ABA brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation’s banking industry and strengthen America’s economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry’s \$14 trillion in assets and employ over 2 million men and women.

² The Financial Stability Oversight Council is required to: “review and, as appropriate, may submit comments to the Commission and any standard-setting body with respect to an existing or proposed accounting principle, standard, or procedure”. It should be noted that the legislation does not require that systemic risk be present; however, with this particular proposed accounting standard, we believe it is clear that the standard poses systemic risk.

³ The proposals are:

- *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)*
- *Comprehensive Income (Topic 220): Statement of Comprehensive Income*

The FASB's proposal is not in accordance with the principles set forth by the G20 for accounting standards, which include encouraging accounting standards setters to focus on international convergence of accounting standards, mitigate procyclicality, and work urgently with supervisors and regulators. We believe that the proposal will not achieve what the G20 had hoped to achieve and will set the U.S. on a directly contradictory path from that being followed by other countries. For example:

- International convergence: The FASB's proposal increases the differences between domestic and international accounting standards rather than moving toward international convergence and will not improve transparency – principles that the G20 has requested standards setters to follow.
- Procyclicality: The FASB's proposal would significantly *increase* the use of mark to market accounting, which experts believe is often procyclical,⁴ by requiring mark to market for all financial instruments. Many agree that procyclicality exacerbated the financial crisis, including the G20 Working Group on Enhancing Sound Regulation and Strengthening Transparency, which noted in its final report that procyclicality is one “of the more salient weaknesses identified as drivers of the current turmoil.”⁵ Further, the G20 has recommended that accounting standard setters and others attempt to “mitigate procyclicality.”⁶
- Coordination with supervisors and regulators: It also appears that the G20's request for “the accounting standard setters to work urgently with supervisors and regulators to improve standards on valuation and provisioning and achieve a single set of high-quality global accounting standards” is not being addressed, as the FASB proposal does not meet the fundamental principles of the Basel Committee on Banking Supervision's “Guiding principles for the replacement of IAS 39.”

We believe it is very important that the Financial Stability Oversight Council, under the specific requirement of the Dodd-Frank Act, review and submit comments to the Securities and Exchange Commission and to the FASB regarding these proposed accounting standards. Please contact Donna Fisher (dfisher@aba.com; 202-663-5318) or me if we can provide any additional information that you or the Council need.

Sincerely,



Edward L. Yingling

⁴ ABA agrees with the use of mark to market for assets that are traded; however, the traditional banking model is to hold loans and many debt instruments for their contractual cash flows. Therefore, the increase in the use of mark to market that is being discussed by the standard setters would provide irrelevant information.

⁵ G20 Working Group 1: “Enhancing Sound Regulation and Strengthening Transparency Final Report”, March 25, 2009.

⁶ G20 “Declaration on Strengthening the Financial System”, London, 2 April 2009:

- “[T]he FSB, BCBS, and CGFS, working with accounting standard setters, should take forward, with a deadline of end 2009, implementation of the recommendations published today to mitigate procyclicality, including a requirement for banks to build buffers of resources in good times that they can draw down when conditions deteriorate....”
- “We also welcome the FSF recommendations on procyclicality that address accounting issues.”