

February 8, 2016

Russell G. Golden
Chairman
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Via email: director@fasb.org

File Reference: 2015-340 *Disclosures by Business Entities about Government Assistance*

Dear Chairman Golden:

The American Bankers Association¹ (ABA) appreciates the opportunity to comment on the exposure draft *Disclosures by Business Entities about Government Assistance* (ED). The ED seeks to increase transparency about government assistance arrangements, including the types of arrangements, the accounting for government assistance, and their effect on an entity's financial statements.

ABA opposes the proposed requirements of the ED primarily due to the overly broad and undefined scope as currently drafted and due to the significant incremental costs that would be incurred to implement new systems in order to capture the required information. Specifically, bank accounting systems are not designed to identify and quantify arrangements or transactions that fall under the scope of government assistance. For example, in order to comply with the ED, an entity will be required to implement systems to 1) identify all interactions with a "government," 2) capture transaction classes that could be considered to be with a governmental entity, 3) determine whether the specific transaction is considered in or out of scope, 4) measure the value of such transactions, and 5) prepare the disclosures. The challenges of these processes are compounded if they must be applied to entities outside of the typical corporate structure, such as consolidated variable interest entities (VIEs)² or entities accounted for with the equity method.³

We question the value of any such system, believing the costs to far outweigh the benefits. Given the various forms of government involvement in commerce, it will be difficult to separate out what

¹ The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's \$14 trillion banking industry and its two million employees.

² Of course, most VIEs do not normally do business. However, the respective assets may have guarantees, indemnifications, and other vehicles that would need to be evaluated as to whether they would fall within the scope of the ED.

³ Disclosure at these particular levels would require clarification on how to value the benefit, considering the proportions benefitting third-parties.

transactions and arrangements fall within the scope of the ED⁴ and what do not. Further, quantifying the amount of assistance received will often be inoperable.

As a consequence of the overly broad scope, ABA is concerned that the proposed guidance will not decrease diversity in practice; rather, the lack of clarity in the scope may inadvertently sweep in a host of standard government programs for which disclosure is not particularly meaningful or useful to investors. Specific issues that cause concern include:

1. **Privately-negotiated municipal bonds:** The tax-advantaged nature of the interest income related to municipal bonds is likely a nondiscretionary level of assistance. However, unique terms of certain municipal bonds, are often individually negotiated by a bank to a specific municipality and the resulting net yield could be considered “discretionary.” We believe that the municipality, as borrower, should be considered a customer and would fall out of the scope of the ED.
2. **Tax-advantaged Investments:** It is clear that various forms of investments in community goals are within the intended scope of the ED. However, certain tax-advantaged investments (including affordable housing partnerships and new market investments) can have similar individually-negotiated tax benefits tied to them, and we believe the tax benefit (whether a Federal or a state benefit) could be considered to be a discretionary level of assistance. Complicating this is that such tax benefit packages may have a secondary market in which the tax benefits may, for practical purposes, be considered nondiscretionary. Therefore, the same investment could result in different treatment, depending on the timing of the investment and the market in which the investment is acquired. We do not believe it was the intent of the Board to scope these tax-advantaged investments into any final standard. However, as the ED is worded, we believe such investments would be included.
3. **Federal and State Loan Guarantees and Indemnifications:** Banks participate in many programs that issue loans guaranteed by federal and state governments, such as residential mortgage loans guaranteed or insured by the Federal Housing Administration, Veterans Administration, and the U.S. Department of Agriculture. These programs guarantee certain loans on variable terms, based on product and on the bank complying with specific loan servicing guidelines. However, certain amounts paid to banks may be subject to approval or otherwise be contested by the respective agency, which is a form of discretion that would fall within the scope of the ED. With this in mind, we believe it is impracticable to estimate the amount of government assistance that is provided by assigning a value to the government guaranty, not only at the time of loan origination or purchase, but throughout the life of the guaranty. We also question the incremental value of this information to users of financial statements, as the loans held under these programs, when material, are subject to existing disclosures related to credit risk. For example, many banks separately report delinquencies on such loans.

⁴ Per the ED, transactions that do not fall under the scope of the ED are ones in which the government is (1) either legally required to provide a nondiscretionary level of assistance to an entity simply because the entity meets applicable eligibility requirements that are broadly available without specific agreement between the entity and the government, or (2) solely a customer.

Banks have also acquired loan portfolios from the Federal Deposit Insurance Corporation (FDIC) that are indemnified by the FDIC. The level of indemnification and the purchase price of the portfolios are normally subject to negotiation. Due to this, we believe the level of assistance is discretionary and would qualify under the scope. The fair value of the indemnification is estimated at the acquisition date. However, the initial value is normally amortized on an ongoing basis.

4. **Business with Government Sponsored Enterprises (GSEs):** Banks also commonly hold securities guaranteed by GSEs. In many cases, guarantee fees and servicing fees are individually negotiated and also can be further based on past servicing performance by the bank. These securities are often structured based on individual bank needs so that changes in guarantee fee rates may often be offset by the servicing fee rates. With this in mind, we do not see how practicable it could be to either determine whether there was government assistance that was received or to make an estimate of its value.

Transactions with other entities, such as the U.S. Postal Service and the Tennessee Valley Authority, may also lead to unintended consequences and, so, would require clarification, not only in how to identify the transactions, but also how to measure the value of the transactions.

We are also concerned about how the requirements of the ED can be interpreted and applied in the future. We believe that the Board does not intend to include within the scope of the ED any perceived “government assistance” derived merely by holding a common bank charter. However, we see future scenarios in which non-bank financial entities under stress may request and receive assistance from a federal regulatory agency, such as access to the Federal Reserve Discount Window. The broadly available eligibility criteria to member banks should make the Discount Window out of scope for these entities; whereas, certain discretionary terms and extensions of credit received by an entity that does not otherwise qualify for such access may be considered in scope.

As a result of these issues, we believe FASB should not proceed with the ED. The costs of systems needed to determine whether government assistance is actually received and to value that assistance are too great for the perceived benefits. If the intent of the ED is to highlight extraordinary arrangements that have been made with governmental entities (those arrangements made outside the course of typical business transactions), then the ED needs to be redrafted to be consistent with this objective. As currently drafted, we believe that the ED will not achieve any of its objectives.

Thank you for your attention to these matters and for considering our views. Please feel free to contact me (mgullette@aba.com; 202-663-4986) if you would like to discuss our views.

Sincerely,



Michael L. Gullette