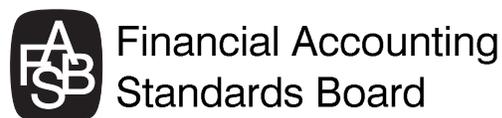


MINUTES



To: Board Members

From: Statement 133 Amendment Team (Busch, ext. 211) **Time Code:** A FI-BINT

Subject: Minutes of the October 9, 2002 Board Meeting **Date:** October 11, 2002

cc: Bielstein, Leisenring, Smith, Swift, Polley, Cassel, Bullen, Lott, Derivatives Implementation Team, Financial Instruments Team, Gabriele, Sutay, Thompson, Vincent (2)

Topic: Issues Raised in Connection with Paragraph 10(i)—Loan Commitments

Basis for Discussion: Staff memorandum dated September 24, 2002

Length of Discussion: Starting Time: 10:00 a.m.
Concluding Time: 10:30 a.m.

Attendance:

Board members present: Crooch, Foster, Herz, Schieneman, Schipper, Trott, and Wulff

Board members absent: None

Staff in charge of topics: Lusniak,

Other staff at Board table: Smith, Wilkins, Lynn, Martin, and Busch

Outside participants: Leisenring (IASB)

Matters Discussed, Decisions Reached, and Follow-up Action:

The Board continued its redeliberations of issues raised in connection with the accounting for derivative instruments in the FASB Exposure Draft, *Amendment of Statement 133 on Derivative Instruments and Hedging Activities*. The Board discussed the proposed scope exception relating to loan commitments.

Board members voted unanimously to clarify that only loan commitments that relate to originating loans with potential borrowers are included in the new paragraph 10(i) scope exception. The Board agreed that the related proposed scope exception in the

Exposure Draft was not intended to apply to commitments to purchase or sell loans. The Board noted that commitments to purchase or sell loans, whether options or forward contracts, should be analyzed under the provisions of FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities*, to determine if those commitments are subject to the requirements of that Statement.

Discussion

The staff indicated that both the Exposure Draft and Statement 133 Implementation Issue No. C13, "When a Loan Commitment Is Included in the Scope of Statement 133," use the phrase *loan commitments that relate to the origination or acquisition of mortgage loans* and that the inclusion of the phrase *or acquisition* causes confusion. That language was carried forward from FASB Statements No. 65, *Accounting for Certain Mortgage Banking Activities*, and No. 91, *Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases*. The staff said that the Exposure Draft and Implementation Issue C13 used *or acquisition* simply to use language that was consistent with those Statements, but the staff was not intending to include commitments to purchase or sell loans in the scope exception of paragraph 10(i).

The Board agreed with the staff and voted unanimously to clarify that commitments to purchase or sell loans are not included in the new paragraph 10(i) scope exception, and thus the definition of a derivative in Statement 133 should be applied to those commitments to determine if they are subject to the provisions of Statement 133. The Board noted that both parties to those contracts, the purchasers and sellers alike, should make that determination. The Board agreed to clarify that paragraph 10(i) of the Exposure Draft was not intended to apply to commitments to purchase or sell loans and that only commitments (that is, options) to originate loans are included in the paragraph 10(i) exception.

The Board agreed that to clarify its intent: (1) the references to acquiring loans in the proposed amendment to Statement 133 and Implementation Issue C13 should be removed, (2) Statements 65 and 91 should be amended to indicate that those Statements should not be applied to fees and costs related to commitments to purchase

or sell loans that are accounted for as derivatives under Statement 133, and (3) the basis for conclusions should explain the above changes to the Exposure Draft.

One Board member commented that a letter had been sent to bank regulators seeking information regarding financial institutions' use of under-priced loan commitments to acquire other types of business. That Board member indicated that the intent of the letter was to ask if regulators believe that that practice is causing financial reporting problems and whether the Board should deliberate that matter further. Board members agreed that bank regulators' responses might indicate a need for further Board discussion relating to loan commitments. However, the Board agreed that that discussion was outside the scope of this project.

General Announcements:

None

Summary for ACTION ALERT:

Same as the first two paragraphs of Matters Discussed...