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October 9, 2009

Mr. Russell G. Golden  
Director, TA&I  
Financial Accounting Standards Board  
401 Merritt 7  
P.O. Box 5116  
Norwalk, CT 06856-5116

**Re: Proposed Accounting Standards Update to Topic 820, *Improving Disclosures about Fair Value Measurements***

Dear Mr. Golden:

The International Swaps and Derivatives Association (“ISDA”) appreciates the opportunity to comment on the exposure draft of proposed Accounting Standards Update, *Improving Disclosures about Fair Value Measurements* (the “Exposure Draft”). ISDA members represent leading participants in the privately negotiated derivatives industry. Collectively, the membership of ISDA has substantial professional expertise and practical experience addressing accounting policy issues with respect to financial instruments.

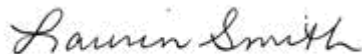
While ISDA supports the FASB’s efforts to enhance fair value disclosures, ISDA does not believe that the output resulting from the information proposed to be disclosed will be useful at any reasonable level of aggregation. In ISDA’s view, any disclosures regarding estimation error, quality of earnings or the risks of illiquid instruments should be based on the best practices for managing those risks in order to maximize the usefulness of the disclosures and to minimize the costs of preparers to implement them. We believe that the lack of usefulness of the proposed disclosures for summary risk review is why these measures are not broadly used or acknowledged as best practice by risk management professionals. Because the proposed disclosures are not useful in this form, processes to collect, aggregate and in some cases create the measurements do not exist, and will require preparers to incur significant costs that we do not believe are justified.

Based upon our views of the lack of usefulness of the proposed disclosures, we believe a more robust analysis of the benefits of the proposal is required. This analysis should include a review of the best practices for managing estimation error, quality of earnings and the risks of illiquid instruments and the relative usefulness of the disclosure of those processes versus the proposed disclosures, and of the relative costs of each.

Further, the proposed effective dates for recent Exposure Drafts released by the FASB, including this one, involve a significant underestimation of the time needed for global firms to create data collection and aggregation processes in a controlled manner. Disclosure processes using data that is not already used in a similar manner for management purposes are often manually intensive for a number of years after a new standard is implemented, as core systems enhancements across the dozens of affected systems in global firms are generally multi-year projects with significant lead times. Whether manual or systems based, newly issued disclosures take time to interpret consistently across peer and audit firms, plan, collect, aggregate and analyze for accuracy. It is simply not possible to execute the disclosures proposed in the Exposure Draft by the respective effective dates.

We hope you find ISDA's comments informative and beneficial. Should you have any questions or desire any clarification concerning the matters addressed in this letter please do not hesitate to contact the undersigned.

Sincerely,



Laurin Smith  
*J.P. Morgan Chase & Co*  
Chair, N.A. Accounting Policy Committee  
*International Swaps and Derivatives Association*  
212.648.0909

## *General Remarks on the Exposure Draft*

### 1. Usefulness

ISDA does not believe that the proposed disclosures will be useful. We agree with the FASB's focus in SFAS 157 on market participant assumptions as a determinant in what is the relevant fair value information to report. We believe that the determination of relevant disclosures related to estimation error, quality of earnings or the risks of illiquid instruments should be similarly based on information currently used by market participants, i.e. the best practices regarding the management of those risks. Management uses various controls to manage these risks, which may include valuation teams independent of the risk taking function, backtesting of valuations to exit prices, value-at-risk ("VAR"), stress testing, and identification of risk exposures not captured by VAR or stress tests. However, the sensitivity analysis proposed by the Exposure Draft introduces requirements which are unrelated to the summary risk management measures used to evaluate fair value and the associated risks of portfolios. Given that this information is not the basis for summary risk management, we question how this disclosure could be insightful in the investment decision making process. For example, the sensitivity disclosure for the same class of financial instrument as well as the underlying valuation assumptions will not be comparable across preparers, since portfolio composition/geography/collateral differ and the distinctions among peers could not be articulated in any summarized meaningful way. ISDA therefore believes that the FASB has not sufficiently demonstrated how the proposed disclosures would be utilized by investors in their analysis and therefore how such quantitative information could be presented in a fashion that would be functional to users.

ISDA also questions whether it is possible to create a balance between the level of disaggregation that would increase the utility of the disclosure and the resulting sheer volume of disclosure. For example, as discussed further below, we believe the range of reasonably possible inputs would be too large to provide a useful indication of estimation error if aggregated by class. Furthermore, the new disclosure by class is inordinately lengthy. For example, the suggested disclosure starting on page 17 of the Exposure Draft takes up a full page for just one class of instrument; projecting this volume to entire trading and investment portfolios in the largest firms results in an unreasonable length of disclosure even at the class level. We do not believe that requiring further disaggregation beyond the class level down to the instrument level is a realistic solution to increasing the functionality of the disclosures.

While ISDA supports the FASB's efforts to enhance fair value measurement disclosures, ISDA does not believe that the proposed disclosures are useful, or that the usefulness can be remedied based on the level of disaggregation. In ISDA's view, the FASB should base the disclosure requirements on how a company manages and controls the relevant risks.

## **2. Operationality**

ISDA does not believe the Exposure Draft's provisions to be operational. More generally, the proposed effective dates for recent Exposure Drafts, including this one, involve a significant underestimation of the time needed for global firms to create data collection and aggregation processes in a controlled manner. While the required data may exist in some form, if its presentation as prescribed in an Exposure Draft is not already used in a similar manner for management purposes, processes to capture and present the data for disclosure purposes must be created from scratch. The resulting disclosure processes are often manually intensive for a number of years after a new standard is implemented, as core systems enhancements across multiple platforms in global firms are generally multi-year projects with significant lead times. Whether manual or systems based, newly issued disclosures take time to interpret consistently across peers and audit firms, plan, collect aggregate and analyze for accuracy.

Given the Exposure Draft's public comment period ending on October 12, 2009 and a final standard likely to be issued, at earliest, in mid-November, the FASB's aim to have certain of the disclosures included in year-end financial reports effectively provides preparers as little as three months prior to filing deadlines to implement those new disclosures. This time frame is not realistic on a stand-alone basis; when considered in conjunction with the resources concurrently expended to implement the recently released SFAS 166, *Accounting for Transfers of Financial Assets—an amendment of FASB Statement No. 140*, and SFAS 167, *Amendments to FASB Interpretation No. 46(R)*, as well as the proposed SFAS, *Disclosures about the Credit Quality of Financing Receivables and the Allowance for Credit Losses*, the proposed effective date is not reasonable. Since the financial instruments and disclosures projects would require multiple and significant disclosure implementations in a relatively short period of time, we ask the FASB to limit the costs to preparers by converging the effective dates wherever possible. For any effective dates prior to those of the financial instruments project, a rigorous cost benefit analysis should be provided to the public that provides sufficient detailed understanding of how the disclosures will be used and of the disclosure collection and aggregation processes required to implement them.

### ***Comments on Specific Provisions of Accounting Standard Update***

## **3. Sensitivity Analysis**

Paragraphs 820-10-50-2(f) and 820-10-50-5(e) of the Exposure Draft require disclosure of the total effect(s) of significant increases or decreases in fair value from using reasonably possible alternative inputs to recurring level 3 fair value measurements. ISDA does not believe that estimation error can be quantified in the manner the FASB

has requested. The reliability of a Level 3 instrument's fair value is based on the strength of a company's valuation methodologies, procedures, and review of fair value estimates versus exit prices when positions are exited. If the FASB wants to enhance users understanding of the estimates involved in valuing Level 3 instruments, we believe this is more accurately represented through disclosures that discuss management's process surrounding valuation and subsequent validation of the fair value estimate through actual exit prices.

Sensitivity analysis is a poor reflection of estimation error because certain factors cannot be captured in the analysis. While we note the FASB's guidance to consider correlation in the sensitivity analysis, we do not believe that correlation can be adequately captured in a sensitivity analysis; in our view, the only way to handle correlation in a reliable and comparable manner would be to remove it from the calculation and clearly disclose that it is not captured in the analysis. However, the issue is further complicated by the fact that without correlation, we believe the information rendered in such analysis would be of no value.

As proposed, for those instruments for which ranges of fair value measurements are not currently used, the sensitivity analysis will require companies to rerun transaction systems to recalculate each fair value measurement using multiple alternate inputs, assuming such inputs exist. We are unclear as to how to implement the requirement for certain illiquid asset classes such as private equity investments and hedge funds for which no range of inputs may exist and where valuations are based on a single price best estimate. Rerunning valuation systems that are designed to be generated once for books and records purposes is a significant operational cost that must be justified.

Further, there are many situations where "buy side" market participants' access to inputs are limited. While certain large financial institutions with in-house valuation departments may have access to the inputs underlying the fair values, many institutions rely on third-party pricing services for fair values, and we believe it is unrealistic for the FASB to require such companies to implement a sensitivity analysis on assumptions underlying Level 3 instruments in the first quarter for 2010 given the significant amount of work and communication these companies will be required to perform with their third-party service providers to obtain such information, particularly if a company would be required to identify each assumption in each Level 3 instrument on a cusip or individual instrument basis.

As previously discussed, ISDA believes that a sensitivity analysis by class of instrument would combine financial instruments that have different composition/geography/collateral inputs. We believe that in applying a sensitivity analysis to a class, each individual instrument in that class may not respond to such changes in a homogenous manner and thus question the informational content of the result at the class level. We believe the amount of work that would be required by preparers to determine the level of homogeneity within classes to be high, and not

sufficiently explored by the FASB. We also note that the many components of the sensitivity analysis can change from period to period, such as the financial instruments within a class, the significance of an unobservable input, as well as an instrument's response to such inputs. As the composition of a class changes each period, or as the composition of significant unobservable inputs change, it is unclear to us if the FASB would require comparative information to be recalculated for prior periods to conform to the current composition used, or if prior periods will continue to use the previous compositions that are not comparable to those in the current period. If the FASB is expecting preparers to continuously update prior period information for comparative purposes, this will be wholly inoperational. However, if the FASB contemplated carrying over prior period sensitivity disclosures, we question the usefulness of this information.

If the FASB feels that a quantitative measure is necessary for users, other measures currently used by management in evaluating their portfolios, such as VAR or backtesting against the related revenues earned, are more useful in evaluating the valuation risk of a financial instrument. A VAR calculation provides transparency to the relative size and magnitude of changes to fair value inputs and would explicitly include 'reasonably possible' outcomes based on ISDA's interpretation of "reasonably possible" and its knowledge of typical VAR calculation confidence levels. ISDA therefore recommends that the FASB delete the proposed quantitative disclosure requirement and instead allow preparers to disclose currently used quantitative and qualitative information that enables users to understand the estimation error associated with level three financial instruments.

ISDA is also concerned that certain of the FASB's proposed quantitative disclosures, including correlation and quantitative disclosure of significant inputs, did not pass the IASB's cost/benefit assessment. For example, in the Basis for Conclusions to the May 2009 IASB Exposure Draft on Fair Value Measurements, the IASB determined that fair value disclosures on sensitivities do not require the entity to reflect interdependencies between assumptions, as the IASB acknowledged that disclosure of sensitivities could be difficult, particularly when there are many inputs to which the disclosure would apply and the assumptions are interdependent. We therefore question the basis for the differing cost/benefit conclusions.

Based on the foregoing, collecting, aggregating, and validating/testing the disclosure could not be implemented for the first quarter of 2010. We recommend the FASB to reevaluate the stated benefits of the disclosure, and evaluate those benefits in relation to the costs to preparers. We believe that investigating whether and how the current sensitivity disclosures required in SFAS 140 (as amended) are actually used in making investment, credit and other decisions should be part of the cost/benefit analysis and could provide insight into the potential usefulness of the proposed sensitivity disclosure.

#### **4. Activity within Level 3**

Paragraphs 820-10-50-2(c) of the Exposure Draft requires separate (gross) disclosure of purchases, sales, issuances, and settlements of level 3 fair value measurements. ISDA does not support the FASB's proposal to require separate presentation as ISDA does not believe the proposed gross disclosure would be useful. The purchases, sales, issuances, and settlement activity, when disclosed separately, do not reliably provide information that reflects an entity's true risk exposure. For example, issuances/purchases do not necessarily translate into increased risk exposure and likewise settlements do not necessarily translate into the reduction of an entity's risk exposure as an increase or decrease in risk associated with one activity (e.g., purchases or sales) would likely be offset by many companies such as financial intermediaries via other risk management activity.

Further, the FASB's proposal to require this separate presentation of purchases, sales, issuances, and settlements activity for Level 3 fair value measurements for periods ending after December 15, 2009, significantly underestimates the operational challenges associated with these proposed disclosure requirements. For most of our members, the settlement and operations systems used for processing cash activities for a given product and the risk and valuation systems for a given product are not generally integrated at the position level. Settlement systems are designed to serve certain operational and cash management functions which are distinct from the risk management objectives that valuation systems are designed to fulfill. While systems are reconciled at an aggregate level to ensure proper control over an entity's inventory positions, reconciliations of cash activity versus fair valuations at a position level in order to disaggregate and then aggregate data at the degree of detail necessary to provide robust disclosures in line with the proposed rollforward do not exist, and would be extremely cumbersome to produce. Contemplating that the data must also be identified by hierarchy level and asset class increases the complexity of implementing new systems or other means to prepare the proposed disclosure reconciliation. Additionally, global firms typically have dozens of settlement systems and valuation systems which would have to be configured, as different settlement and valuation systems are used for discrete product types (e.g., equity settlement systems, treasury settlement systems, derivative settlement systems, etc.). Further, the proposed guidance as drafted would require retroactive analysis of all cash flows for all recurring level 3 transactions to the beginning of 2009. These operational issues are compounded when considering that the requirements in the Exposure Draft would not only need to be prepared for consolidated financial statements, but also for stand-alone financial statements. The volume of intercompany transactions can be significant, and requiring such a disclosure for both consolidated and stand-alone reporting in this timeframe is inoperational.

In light of the limited usefulness of this disclosure, as well as being inoperational for year-end 2009 reporting, we recommend that the FASB remove the proposed requirement to separately disclose the purchases, issuances, sales, and settlements activity within level 3 of the fair value hierarchy on a gross basis.

## **5. Level of disaggregation**

Paragraph 820-10-50-2A of the Exposure Draft clarifies that the level of disaggregation required in the tabular disclosures for fair value measurements for debt and equity securities must follow the guidance for major security types in Topic 320, and for all other assets and liabilities, judgment should be applied to determine the appropriate level of aggregation/disaggregation including application of other U.S. GAAP accounting principles. ISDA supports disaggregation to an appropriate level for quantitative disclosures; however, ISDA is concerned that the examples illustrating application of the clarification seem to prescribe a level of detail for particular products without allowing judgment for materiality or relative exposure. For example, the illustrative disclosure in paragraph 820-10-55-61 set forth on page 12 of the Exposure Draft includes fair value information for equity securities using the relevant industry sector and the information provided for the hedge fund investments provides the fund's trading strategy, while the information for venture capital investments was not further disaggregated. As there is no basis for the disaggregation of one investment class versus another, the example seems to prescribe specific disaggregation levels for certain instrument classes. We therefore recommend that the FASB modify the disclosure set forth in paragraph 820-10-55-61 by including a discussion on how judgment was applied in determining the level of aggregation/disaggregation used throughout the footnote disclosure.

ISDA also questions the relevance of requiring disaggregation of fair value measurements which fall into Level 1 and for many fair value measurements that fall into Level 2 of the fair value hierarchy as (i) these measurements require little, if any, management judgment, (ii) their inputs are derived entirely from observable market information, and (iii) the classes and types of financial assets and liabilities which fall into in each level are disclosed qualitatively. ISDA therefore recommends that the FASB remove from the example any disaggregation for instrument classes whose measurements are identified as falling solely within Level 1 and Level 2.

## **6. Disclosure of inputs**

Paragraphs 820-10-50-2(e) and 820-10-55-22A of the Exposure Draft clarify the disclosures about inputs and valuation techniques required for fair value measurements derived from significant other observable inputs and significant unobservable inputs



for each class of asset and liability. Paragraph 820-10-55-22A provides example inputs that can be disclosed in order to comply with the proposed requirements including:

- The type of valuation technique used,
- Quantitative information about inputs relating to prepayment rates, rates of estimate credit losses, interest rates, discount rates and volatilities,
- Nature and type of collateral, guarantees, or other credit enhancements,
- How broker quotes, pricing services, and net asset values were considered in estimating fair value

ISDA does not object to the proposed requirement to enhance the qualitative disclosures of inputs to fair value measurements; however, we question the usefulness of certain of these added disclosure requirements. For example, in global loan portfolios, loans originated in a different state/jurisdiction have different inputs and assumptions and therefore the proposed input disclosures will lose their comparability and transparency when aggregated since the weighted average portfolio composition will differ by any level of aggregation above the individual loan level. In addition, since the new disclosure requirements are by class of financial instrument, the additional information (and increased number of pages of disclosure) that will result will likely be voluminous, especially for trading portfolios, as the Exposure Draft's example for just one class of financial instrument substantially consumes one page of discussion on page 17 of the Exposure Draft.

ISDA therefore recommends that the FASB delete the proposed quantitative disclosure requirement and instead require preparers to disclose qualitative information that enables users to understand the significant risks associated with financial instruments, and to determine which of the instrument classes, based on their nature and risks, require the additional disclosure.

## **7. Effective Date and Transition**

The effective date for the provisions of the Exposure Draft are phased such that all proposed provisions other than the sensitivity disclosure for level 3 fair value measurements are effective for interim and annual periods ending after December 15, 2009, while the sensitivity disclosure requirement would be effective for periods ending after March 15, 2010. As currently drafted, no aspect of the proposed accounting standards update is operational within the time frame established by the proposed effective date, but particularly for sensitivity disclosure and disclosure of the activity within Level 3 of the fair value hierarchy.

We note that significant preparers' resources have already been utilized for implementing other accounting standards effective either at year-end or in the first quarter of 2010, including the proposed SFAS, *Disclosures about the Credit Quality of Financing Receivables and the Allowance for Credit Losses*, the recently issued SFAS

166, *Accounting for Transfers of Financial Assets—an amendment of FASB Statement No. 140*, and SFAS 167, *Amendments to FASB Interpretation No. 46(R)*. We also note that the IASB gave IFRS preparers a significantly longer time period to implement the IFRS 7 amendments released in March 2009.

Also, in light of the financial instruments project which may require another implementation of different financial instruments-related disclosures as well as the FASB's broad project to address all disclosures, we recommend that the FASB delay the issuance of the proposed accounting standards update until the FASB completes its due process related to the financial instruments project, and make every effort to converge the effective dates.

Based on the above discussed operational issues including that data collection, aggregation and review processes for this information do not exist, and that the collection of disaggregated Level 3 activity for would be retroactive to the beginning of a fiscal year, we believe that the time to design, implement and test the processes to be created to comply with the proposed disclosures would take a minimum of twelve months. Therefore if the FASB were to issue a final standard substantially as proposed we recommend an effective date that is no earlier than for periods beginning after December 15, 2010 for Level 3 sensitivity analysis required by paragraph 820-10-50-2(f) and for Level 3 activity relating to purchases, sales, issuances, and settlements required by paragraph 820-10-50-2(c2).