

December 18, 2020

Ms. Hillary H. Salo
Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

By e-mail: director@fasb.org


Re: Proposed Accounting Standards Update—*Earnings Per Share (Topic 260), Debt—Modifications and Extinguishments (Subtopic 470-50), Compensation—Stock Compensation (Topic 718), and Derivatives and Hedging—Contracts in Entity’s Own Equity (Subtopic 815-40): Issuer’s Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Forwards and Options*
(a consensus of the Emerging Issues Task Force)
(File Reference No. 2020-800)

Dear Ms. Salo:

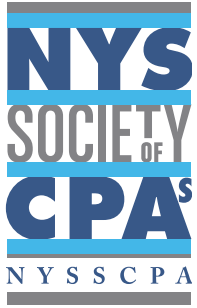
The New York State Society of Certified Public Accountants (NYSSCPA), representing more than 22,000 CPAs in public practice, industry, government and education, welcomes the opportunity to comment on the above-captioned exposure draft.

The NYSSCPA’s Financial Accounting Standards Committee deliberated the proposed accounting standards update and prepared the attached comments. If you would like additional discussion with us, please contact Jeffrey A. Keene, Chair of the Financial Accounting Standards Committee, at (732) 750-0900, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,


Edward L. Arcara
President

Attachment



**NEW YORK STATE SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS**

COMMENTS ON

PROPOSED ACCOUNTING STANDARDS UPDATE—*EARNINGS PER SHARE (TOPIC 260), DEBT—MODIFICATIONS AND EXTINGUISHMENTS (SUBTOPIC 470-50), COMPENSATION—STOCK COMPENSATION (TOPIC 718), AND DERIVATIVES AND HEDGING—CONTRACTS IN ENTITY'S OWN EQUITY (SUBTOPIC 815-40): ISSUER'S ACCOUNTING FOR CERTAIN MODIFICATIONS OR EXCHANGES OF FREESTANDING EQUITY-CLASSIFIED FORWARDS AND OPTIONS*
(a consensus of the Emerging Issues Task Force)

(File Reference No. 2020-800)

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**Jeffrey A. Keene
Sean C. Prince**

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New York State Society of Certified Public Accountants

Comments on

Proposed Accounting Standards Update—*Earnings Per Share (Topic 260), Debt—Modifications and Extinguishments (Subtopic 470-50), Compensation—Stock Compensation (Topic 718), and Derivatives and Hedging—Contracts in Entity’s Own Equity (Subtopic 815-40): Issuer’s Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Forwards and Options* (a consensus of the Emerging Issues Task Force)

(File Reference No. 2020-800)

We welcome the opportunity to respond to the Financial Accounting Standards Board’s (FASB or the Board) invitation to comment on Proposed Accounting Standards Update—*Earnings Per Share (Topic 260), Debt—Modifications and Extinguishments (Subtopic 470-50), Compensation—Stock Compensation (Topic 718), and Derivatives and Hedging—Contracts in Entity’s Own Equity (Subtopic 815-40): Issuer’s Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Forwards and Options* (a consensus of the Emerging Issues Task Force) (proposed Update).

General Comment

We support the Board’s objective to provide clarity and reduce diversity in practice in this area.

Questions for Respondents

Overall

Question 1: Do you agree that the amendments in this proposed Update should apply to freestanding equity-classified forwards and options that remain equity classified after modification or exchange and are not within the scope of Topic 718 or accounted for as derivatives under Topic 815? Why or why not?

Response: Yes, we agree with the proposed scope of the guidance. We believe the proposed scope will address the modification of instruments in which there is the greatest diversity in practice.

Question 2: Do you agree that an issuer should recognize the effect of a modification or an exchange of a freestanding equity-classified forward or option on the basis of the substance of the transaction as described in paragraph 815- 40-35-17? Why or why not?

Response: We agree. In our experience, there are different reasons why parties to a forward or option contract modify its terms. We support the Board’s proposal that the accounting for the modification should reflect the substance of the arrangement, which is best understood by the parties negotiating the terms of the modification or exchange.

Question 3: For modifications or exchanges of freestanding equity-classified forwards and options that are within the scope of the proposed amendments, an issuer would not recognize the effect of a modification or an exchange that results in a reduction in the fair value of that instrument (similar to the share-based payment model in Topic 718). Do you agree with that accounting? Why or why not?

Response: We agree. We have not observed many instances in which a modification results in a reduction in fair value. In those instances in which it does occur, we have observed that the counter-party has a significant economic interest in the issuer and, therefore, any resulting gain may, in substance, represent an equity contribution.

Question 4: Are the proposed amendments operable, including for situations in which the substance of the transaction includes multiple elements (for example, debt financing and equity financing)? If not, what changes do you recommend and why?

Response: We believe the proposed amendments are operable.

Compensation for Goods or Services

Question 5: For modifications or exchanges of freestanding equity-classified forwards and options that represent compensation for goods or services, are the proposed amendments in paragraph 815-40-35-18 and to Topic 718 necessary to clarify that those transactions are within the scope of Topic 718?

Response: Yes.

Other Modifications That Are Not Related to Financings, Compensation for Goods or Services, or Other Exchanges

Question 6: Do you agree that an issuer should recognize the effect of a modification or an exchange of a freestanding equity-classified forward or option as a dividend when the substance of the transaction is not related to a financing, compensation for goods or services, or exchange transactions addressed by other Topics? Why or why not?

Response: As noted in our response to Question 4, we support the Board’s overarching objective for modifications to be accounted for in accordance with their substance. Consequently, we disagree with how paragraph 815-40-35-17(d) would make dividend accounting the default treatment for “other” modifications. While we understand that some modifications will, in fact, represent deemed dividends, we believe that this “default” approach would result in certain modifications not being accounted for in accordance with their substance.

For example, in a speech given in 2014 addressing the modification of preferred stock, the SEC staff observed that “[i]n certain unique circumstances, it may be appropriate to [account for the modification] as a form of compensation.”¹ We understand that this guidance has been analogized in assessing the substance of equity classified forwards and options. To that end, we believe that in certain circumstances, a modification of an equity-classified forward or option might more appropriately be classified as an expense rather than as a dividend.

We also have concerns about the decision usefulness of treating modifications of in-scope instruments as dividends for certain types of entities. For example, certain types of legal entities (e.g., LLCs) present only one category of equity in their financial statements. Consequently, presenting a modification as a deemed dividend will have no effect on the single-line equity balance presented in the financial statements. We encourage the Board to consider this fact during its redeliberation discussions.

Transition and Effective Date

Question 7: Do you agree with the transition provisions, including early adoption in an interim period as of the beginning of the fiscal year that includes that interim period? If not, what changes do you recommend and why?

Response: We agree.

Question 8: How much time would be necessary to adopt the proposed amendments? Would the amount of time needed to apply the proposed amendments by entities other than public business entities and public business entities that do not meet the definition of a Securities and Exchange Commission (SEC) filer be different from the amount of time needed by public business entities that meet the SEC filer definition?

Response: We believe the time to adopt the proposed amendments will vary based on the frequency and number of such modifications or exchanges the issuer makes. We believe that entities other than public business entities and public business entities that do not meet the definition of an SEC filer would generally require more time to apply the proposed amendments. In most circumstances, these entities do not have equity instruments with readily determinable fair values and therefore valuing the effect of modifications or exchanges of freestanding equity-classified forwards and options will require more time and effort (e.g., a valuation to determine the share price of the underlying equity security and evaluation of the other inputs to the valuation model).

¹ See T. Kirk Crews, *Office of the Chief Accountant, Remarks before the 2014 AICPA National Conference on Current SEC and PCAOB Developments*.