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Subject: US DOL/OCFO/DFR Comments on FASAB ED, "Debt Cancellation: An Interpretation of SFFAS 7, Paragraph 313"

Below please find comments from the U.S. Department of Labor (DOL), Office of the Chief Financial Officer (OCFO), Division of Financial Reporting (DFR), on the exposure draft of proposed Interpretation, "Debt Cancellation: An Interpretation of SFFAS 7, Paragraph 313." Comments were requested by July 23, 2021. DOL/OCFO/DFR is a Federal entity preparer.

We appreciate the opportunity to provide comments. If there are any questions, please contact:

Cynthia Simpson, simpson.cynthia@dol.gov or
Jennifer Maurer, Maurer.Jennifer@dol.gov

Regards,

Cynthia D. Simpson
U.S. Department of Labor
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Q.1. Do you agree or disagree with the guidance? Please provide the rationale for your answer.

**DOL/OCFO/DFR disagrees.**

**For the SFFAS 7, paragraph 313:**

Cancellation of debt.—The debt that an entity owes Treasury (or other agency) may be canceled by Act of Congress. The amount of debt that is canceled (including the amount of capitalized interest that is canceled, if any) is a gain to the entity whose debt is canceled and a loss to Treasury (or other agency). The purpose of borrowing authority is generally to provide an entity with capital rather than to finance its operations. Therefore, the cancellation of debt is not earned by the entity's operations and is not directly related to the entity's costs of providing goods and services. As a result, the cancellation is a nonexchange gain to the entity that owed the debt and a nonexchange loss to the lender.

1. We disagree that the purpose of borrowing authority is generally to provide an entity with capital rather than to finance its operations. Currently, DOL has two social insurance programs that borrow from the Treasury: The Black Lung Disability Trust Fund (BLDTF) and the Unemployment Trust Fund (UTF). Both of these funds are also reported as funds from dedicated collections.

1a. From P.L. 110-343, enacted 10/03/2008, Division B--Energy Improvement and Extension Act of 2008, Section 113 [122 STAT. 3826]:

(B) REPAYMENT OF OBLIGATIONS.—In the event that the Trust Fund is unable to repay the obligations that it has issued to the Secretary of the Treasury under subparagraph (A)(i) and this subparagraph, or is unable to make benefit payments and other authorized expenditures, the Trust Fund shall issue obligations to the Secretary of the Treasury in such amounts as may be necessary to make such repayments, payments, and expenditures, with a maturity of 1 year, and bearing interest at the Treasury 1-year rate. These obligations shall be in such forms and denominations and be subject to such other terms and conditions as the Secretary of the Treasury shall prescribe.

The BLDTF is authorized to borrow from Treasury in the form of one-year obligations to make payments for repayments of debt, interest due on the debt, costs for benefits, and administrative costs. The BLDTF borrows from Treasury every year.

1b. The UTF borrows for two purposes:  
Providing funding for the UTF's  
-- Federal Unemployment Account (FUA) and  
-- Extended Unemployment Compensation Account (EUCA)

Title XII, Section 1201 of the Social Security Act authorizes the FUA to loan Federal monies to state accounts that are otherwise unable to make benefit payments because a State's Unemployment Insurance account balance has been exhausted. When the FUA needs funds to loan to States, the FUA borrows as interest-bearing repayable Advances from U.S. Treasury; unemployment taxes repay this debt.

The Extended Unemployment Compensation Account (EUCA) was established pursuant to the Social Security Act Section 905 of the Social Security Act. EUCA provides for the payment of extended unemployment benefits (extended benefits) authorized under the Federal-State Extended Unemployment Compensation Act of 1970, as amended. In general, the cost of extended benefits is shared 50

percent Federal and 50 percent State. COVID-19 related legislation authorized 100 percent Federal funding of extended benefits through September 6, 2021. When EUCA needs funds to pay extended benefits the EUCA borrows as interest-bearing repayable Advances from U.S. Treasury; unemployment taxes repay this debt. During periods of sustained high unemployment, Congress may authorization legislation so that the EUCA may also receive payments and non-repayable advances from the General Fund of the Treasury to finance temporary emergency unemployment compensation benefits. The FUA and EUCA borrow from Treasury during years of higher unemployment. In FY 2020, the balances in the FUA and EUCA were depleted and the FUA and EUCA borrowed from the Treasury general fund as repayable Advances from U.S. Treasury. As of September 30, 2020, the FUA's outstanding advances totaled \$36.0 billion at rates between 1.75 and 2.0 percent; the EUCA repaid its advances as of September 30, 2020.

Based on the discussions above, we disagree that the purpose of borrowing authority is generally to provide an entity with capital rather than to finance operations; the borrowing is a result of operations.

**Q.2. Is there a need for additional clarity or consistency to the definition or use of the term "other financing sources" in FASAB documents or other guidance?**

Other financing sources should include non-recurring or infrequent transactions for which debt cancellation may be considered to be non-recurring or infrequent.

**Q.3. Do you believe that the proposed Interpretation clarifies ambiguity regarding debt cancellation and would resolve any existing or anticipated issues? If not, please provide detail about other specific clarifications required regarding debt cancellations. Please also provide any other comments and other suggestions on the Interpretation. Please provide the rationale for your answer.**

The guidance for "cancellation of debt" could be more specific. For example, is it a cancellation of debt if

- old debt is replaced by new debt
- the old debt and new debt occur simultaneously (or if not, does the amount of time in between matter)
- the old debt is valued in the transaction at a value that is different from the balance sheet value
- the terms of the debt are re-negotiated, e.g., forgiven principal, forgiven interest, change in interest rates, extension of maturity dates/due dates of principal and interest, or any combination of these.

We ask the Board to consider this example from the BLDTF because it had the opposite effect: DOL reported a Loss on the Statement of Net Costs instead of a Gain in the Statement of Changes in Net Position.

On October 3, 2008, P.L. 110-343, Division B, section 113 authorized a transaction in which

- the BLDTF received an appropriation to pay the outstanding advances to U.S. Treasury, but the appropriation did not pay for all of it;
- the outstanding advances and interest were valued at “market value,” not carrying/book value, for the purposes of the transaction;
- the BLDTF issued new obligations similar in form to zero-coupon bonds (ZCBs) with staggered maturities on September 30 over the 32-year period 2009 through 2040;
- the ZCBs issued had interest rates between 1.412% and 4.556%;
- the debt removed from the balance sheet had higher interest rates;
- the law used the terms “Restructuring of trust fund debt” and “Refinancing of outstanding principal of repayable advances and unpaid interest on such advances”; and
- the BLDTF recognized a “Loss on debt refinancing” of \$2.5 billion that was reported as a separate line item in the Note 15.C, Consolidating Statement of Net Cost of the Employment Standards Administration for the Year Ended September 30, 2009 and was included in Net Program Cost (no separate line item) on the Statement of Net Cost for the Year Ended September 30, 2009.

Prior to the transaction, as of 09/30/2008, the debt was reported on the balance sheet at its carrying/book value of nearly \$10.5 billion. But, in accordance with the law, for the purposes of the transaction, the old debt was valued at “market value” by the Treasury.

P.L. 110-343, Division B, Section 113 [122 STAT. 3825]

(2) REFINANCING OF OUTSTANDING PRINCIPAL OF REPAYABLE ADVANCES AND UNPAID INTEREST ON SUCH ADVANCES.—

(A) TRANSFER TO GENERAL FUND.—On the refinancing date, the Trust Fund shall repay the market value of the outstanding repayable advances, plus accrued interest, by transferring into the general fund of the Treasury the following sums:

(i) The proceeds from obligations that the Trust Fund shall issue to the Secretary of the Treasury in such amounts as the Secretaries of Labor and the Treasury shall determine and bearing interest at the Treasury rate, and that shall be in such forms and denominations and be subject to such other terms and

For the BLDTF, the effect of the refinancing was to eliminate Advances from U.S. Treasury that had higher interest rates and replace them with ZCBs bearing interest rates between 1.412% and 4.556%. Treasury’s market value for the outstanding repayable Advances from U.S. Treasury, plus accrued interest, was nearly \$13.0 billion. The total par value of the zero coupon bonds was \$11.4 billion and the total proceeds to the BLDTF from the issuance of the ZCBs was nearly \$6.5 billion. The one-time appropriation amount was nearly \$6.5 billion.

The BLDTF recognized a loss of nearly \$2.5 billion for the difference between the market value of the outstanding advances, plus accrued interest, of nearly \$13.0 billion as determined by Treasury and the carrying value of the outstanding advances and accrued interest of nearly \$10.5 billion.

For your reference, DOL's FY 2009 financial statements may be found here:

<https://www.dol.gov/sites/dolgov/files/general/reports/2009annualreport.pdf>