



December 3, 2019

Memorandum

To: Members of the Board  
From: Melissa L. Batchelor, Assistant Director  
*Monica R. Valentine*

Through: Monica R. Valentine, Executive Director

Subj: Evaluation of Existing Standards—Potential Interpretation Topics – **Tab B**<sup>1</sup>

**MEMBER ACTIONS REQUESTED:**

- Respond to staff questions on p. 4 & 8 by December 11<sup>th</sup>

**MEETING OBJECTIVES**

The objective of this session is to consider two potential interpretation topics for consideration under the evaluation of existing standards project. Specifically, the first topic is following-up on the October agenda item related to debt cancellation. Staff will also be providing a brief overview of another topic that has been brought to staff's attention; the issue is related to nonfederal, non-entity Fund Balance with Treasury (FBWT) in SFFAS 1, *Accounting for Selected Assets and Liabilities* paragraph 31.

**BRIEFING MATERIAL**

This memo presents background information regarding two potential interpretation topics for consideration under the evaluation of existing standards project. The staff analysis is attached and includes questions for the Board. You may electronically access all of the briefing material at <http://www.fasab.gov/board-activities/meeting/briefing-materials/>.

**Attachment A - Staff Analysis**

**Attachment B - October 2019 Board Meeting-Tab H Memo, "Request to review par. 313 of SFFAS 7 Debt Cancellation"** (*This provides more detail regarding this topic.*)

**Attachment C - FASAB Staff Position Paper for joint NSA/NGA/OIG/KPMG/FASAB March 2019 meeting**

<sup>1</sup> The staff prepares Board meeting materials to facilitate discussion of issues at the Board meeting. This material is presented for discussion purposes only; it is not intended to reflect authoritative views of the FASAB or its staff. Official positions of the FASAB are determined only after extensive due process and deliberations.

## **BACKGROUND**

As noted, the objective of the session is to consider two potential interpretation topics under the evaluation of existing standards project. As you recall at the October 2019 meeting, staff presented whether paragraph 313 of SFFAS 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting*, which pertains to debt cancellation, needs to be revised.

Most Board members agreed that the paragraph may need clarification and that it should be resolved with the lowest level of GAAP guidance afforded. The Board discussed the possibilities of issuing an amendment, which could be through a future omnibus or separate Statement, addressing it through an Interpretation or addressing it through a Technical Bulletin. It was agreed that staff would develop a list of options.

Staff will also provide an overview of another topic that was brought to staff's attention; the issue is related to SFFAS 1, *Accounting for Selected Assets and Liabilities* par. 31.

## **PHASE**

This potential project is in the research and development phase.

## **NEXT STEPS**

The next steps depend on Board member feedback. If members agree, staff will begin drafting the Interpretations and provide at least one for the February 2020 meeting.

## **MEMBER FEEDBACK**

Please contact me as soon as possible to convey your questions or suggestions. Communication before the meeting will help make the meeting more productive. You can contact me by telephone at 202-512-5976 or by e-mail at [batchelorm@fasab.gov](mailto:batchelorm@fasab.gov) with a cc to [valentinem@fasab.gov](mailto:valentinem@fasab.gov).

## Attachment A- Staff Analysis

### Debt Cancellation Issue - SFFAS 7, paragraph 313

As you recall at the October meeting, staff presented an issue on whether paragraph 313 of SFFAS 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting*, which pertains to debt cancellation, needs to be revised.

The relevant language from SFFAS 7 is:

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.

[See **Attachment B - October 2019 Board Meeting Tab H Memo, "Request to review par. 313 of SFFAS 7 Debt Cancellation"** The memo and staff analysis from the October 2019 meeting provides more detail regarding this topic.]

Most Board members agreed that the issue should be resolved with the lowest level of GAAP guidance afforded. The Board discussed the possibilities of issuing an amendment, which could be through a future omnibus or separate Statement, addressing it through an Interpretation and addressing it through a Technical Bulletin. It was agreed that staff would develop a list of options.

Since the DHS/FEMA negative surplus warrant transaction netted no change to fund balance (meaning, the balance was the same before and after the liability was reduced in the DHS example) the Board agreed fundamentally paragraph 313 is accurate. However, the Board noted that it may be the imprecision of the term "gain/loss" that's of issue. The Board also agreed the "gain/loss" terms used in par. 313 are not of particular importance to intragovernmental transactions and should not be construed to mean that it was the intent that a particular line item be displayed. The more important aspect is that this type of activity show on the Statement of Changes in Net Position and it isn't running through the Statement of Net Cost.

Therefore, the Board believed that the guidance may need to clarify that there is no requirement for presentation of a certain line item (such as gain or loss) as long as the debt cancellation is captured on the Statement of Changes in Net Position. Specifically, the Board believed the guidance should clarify that debt cancellation is reported on the

Statement of Changes of Net Position but need not be presented as a specific “gain/loss” line item.

As noted above, most Board members agreed at the October Board meeting that the issue should be resolved with the lowest level of GAAP guidance afforded. Staff considered an amendment, which could be through a future omnibus, addressing it through an Interpretation and addressing it through a Technical Bulletin in determining the appropriate GAAP vehicle to be used.

Considering the Board believed that par. 313 was fundamentally accurate and the issues related to par. 313 were specific to the imprecision of the word “gain/loss” as used, staff believes this issue could be resolved through a lower level of GAAP. Because the issue relates to the imprecision of the word “gain/loss” as used, staff believes an Interpretation may be the most direct way to address the issue.

As noted, the guidance would clarify that debt cancellation is reported on the Statement of Changes of Net Position but need not be presented as a specific “gain/loss” line item. An Interpretation could focus on the specific topic in a timely manner, while not opening up other areas of SFFAS 7 for revision. It would be an efficient way to resolve the issue and use the least amount of Board or staff resources. Opening up SFFAS 7 par. 313 to amendment, whether through an Omnibus or individual Statement would involve more Board time.

Staff also notes that most members agreed that expanded disclosures as appropriate would be helpful in this area. While Interpretations do not provide for new disclosures, staff believes that this can be addressed by including a statement that agencies should consider all existing GAAP to ensure disclosures are appropriate. The topic could be expanded upon to include examples of the information that may be appropriate.

A technical bulletin (which is lower level GAAP) did not appear to be a feasible option because of the materiality of the transactions that relate to this issue and the fact there has been a known difference in interpretation by Treasury and other Departments regarding this issue. Per TB-2001, *Purpose and Scope of FASAB Technical Bulletins and Procedures for Issuance*, a Technical Bulletin would not be appropriate in these situations.

#### **QUESTION FOR THE BOARD:**

**Does the Board agree with the staff recommendation to issue an Interpretation to address the debt cancellation issue?**

## Nonfederal, Non-entity FBWT, SFFAS 1, paragraph 31

Staff considered other potential Board issues under the evaluation of existing standards project that should be brought to the Board's attention for consideration. Therefore, staff is providing a brief overview of another topic that was submitted to staff via a Technical Inquiry; the issue is related to SFFAS 1 par. 31.

SFFAS 1, par. 31 provides:

A federal entity's fund balance with the Treasury (FBWT) is the aggregate amount of funds in the entity's accounts with Treasury for which the entity is authorized to make expenditures and pay liabilities. FBWT is an intragovernmental item, except for fiduciary or other nonfederal non-entity FBWT. From the reporting entity's perspective, the reporting entity's FBWT is an asset because it represents the entity's claim to the federal government's resources. However, from the perspective of the federal government as a whole, it is not an asset; and while it represents a commitment to make resources available to federal departments, agencies, programs and other entities, it is not a liability. In contrast, fiduciary and other non-federal non-entity FBWT is not intragovernmental, and it represents a liability of the appropriate Treasury component and of the federal government as a whole to the non-federal beneficiaries.

### *Background*

FASAB received a technical inquiry after the 2018 audit cycle from the National Security Agency (NSA) regarding a difference of opinion between NSA management and their auditor, KPMG LLP, regarding the application of Statement of Federal Financial Accounting Standards 1, *Accounting for Selected Assets and Liabilities*. The issue related to how monies received in deposit funds from non-federal sources in anticipation of an order (an advance) should be reported and presented on the financial statements. The nonfederal non-entity funds are held in deposit at the General Fund of the U.S. Government.

After further discussion, the National Geospatial-Intelligence Agency also joined NSA on the inquiry because this issue was present during their financial statement audit.

Note that management and the auditor agree that the deposits are nonfederal non-entity assets.<sup>2</sup> The disagreement is with the presentation of the asset on the balance sheet. The auditor believes the deposits should not be an intragovernmental (FBWT) asset, but instead should be reclassified to a nonfederal line on the balance sheet.

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<sup>2</sup>"Entity assets are those assets which the reporting entity has authority to use in its operations. Non-entity assets are those assets that are held by an entity but are not available to the entity." (SFFAS 1, par. 25)

FASAB staff researched the issue, met with all pertinent parties in March 2019 to discuss the topic. FASAB staff provided them with a staff paper that detailed the history of paragraph 31 and what appeared to be the Board's intent in hopes of resolving the issue. At that point, KPMG stated that they planned to provide the information with their national practice office. **[See Attachment C- FASAB Staff Position Paper for joint NSA/NGA/OIG/KPMG/FASAB March 2019 meeting]**

#### *FY 2019 Update*

Staff recently learned that for the FY19 financial statement audits, the NSA IG/KPMG LLP issued a 'Notification of Finding and Recommendation (NFR) to NSA regarding the topic. In addition, NGA also received a NFR for the second straight year from KPMG LLP.

Therefore, it appears the staff position paper (**Attachment C- FASAB Staff Position Paper for joint NSA/NGA/OIG/KPMG/FASAB March 2019 meeting**) and related meeting with the NSA, NGA, OIG and KPMG LLP in March 2019 did not bring resolution to the matter. KPMG LLP did not accept the staff paper as resolution because the staff position paper did not clarify the application of GAAP to the presentation of NSA's deposit fund asset.

#### *What are the project objectives?*

The project objective is to resolve ambiguity in paragraph 31 of SFFAS 1 regarding the presentation of deposits that are nonfederal non-entity FBWT through an Interpretation.

#### *Why is guidance necessary?*

The guidance is necessary because, paragraph 31 of SFFAS 1 is not clear and has resulted in different application. Staff believes this may be due to the wording and amendments from SFFAS 31. Staff believes additional explanation and clarification through an Interpretation would resolve any ambiguity.

#### *What are staff's preliminary views/recommendations?*

There are two main points that the Interpretation will be based on:

1. FBWT is an intragovernmental aggregate account between federal agencies and the General Fund of the U.S. Government. It is where funds are kept until needed to fulfil the non-entity orders. Staff notes that this presentation is also consistent with guidance provided by OMB and prevalent practice at other agencies.
2. The amendments to SFFAS 1 by SFFAS 31, *Accounting for Fiduciary Activities* may have contributed to the lack of clarity and differences regarding application

of the intragovernmental classification. (This discussion regarding the language and amendments is discussed in the next question.)

Staff believes the inclusion of “other non-federal non-entity deposit funds” in paragraph 31 of SFFAS 1 was to provide similar treatment for activities that were very closely aligned with fiduciary activity rather than to require similar treatment for activities that were explicitly excluded from the provisions of SFFAS 31. Staff believes it important to note the intent of the amendments and the purpose of the language that was added to SFFAS 1. An Interpretation can resolve any ambiguity in the most efficient way to resolve the issue.

*Are there any related standards?*

SFFAS 31, *Accounting for Fiduciary Activities* may have contributed to the lack of clarity and differences regarding application of the intragovernmental classification. SFFAS 31 amended par. 31 of SFFAS 1 as follows:

This standard affects current standards that define Fund Balance with Treasury. Paragraph 31 of SFFAS 1 is amended as follows:

[31] A federal entity’s fund balance with the Treasury (**FBWT**) is the aggregate amount of funds in the entity’s accounts with Treasury for which the entity is authorized to make expenditures and pay liabilities. **FBWT** is an intragovernmental item, **except for fiduciary or other non-federal non-entity FBWT.** From the reporting entity’s perspective, **the reporting entity’s FBWT** is an asset because it represents the entity’s claim to the federal government’s resources. However, from the perspective of the federal government as a whole, it is not an asset; and while it represents a commitment to make resources available to federal departments, agencies, programs and other entities, it is not a liability. **In contrast, fiduciary and other non- federal non-entity FBWT is not intragovernmental, and it represents a liability of the appropriate Treasury component and of the federal government as a whole to the non-federal beneficiaries.**

*Who will the guidance affect?*

An Interpretation would be applicable to all reporting entities, but staff does not believe it will affect current practice. The Interpretation will clarify what is currently being done by reporting entities now.

*How will the guidance affect current practice?*

Staff does not believe this will affect current practice. It will clarify what is currently being done. However, as discussed above, the issue was raised to FASAB through a Technical Inquiry because it is now being reported as an audit finding for certain agencies.

Staff notes that several other agencies have somewhat similar type scenarios and they report the deposit funds as intragovernmental FBWT on the balance sheet and disclose the portion that is non-entity in the notes to the financial statements. For example, Department of Commerce and the Security and Exchange Commission do so.

This is consistent with requirements to show non-entity assets separately. Par. 26 of SFFAS 1 provides “Non-entity assets recognized on an entity’s balance sheet should be segregated from entity assets. An amount equal to non-entity assets should be recognized as a liability (due to Treasury or other entities) recognized on the balance sheet.” OMB’s Form and Content directs that the distinction be disclosed in the notes, and not on the face of the Balance Sheet.

**QUESTION FOR THE BOARD:**

**Does the Board agree with the staff recommendation to propose an Interpretation to address the nonfederal non-entity FBWT issue?**

**Attachment B - October 2019 Board Meeting-Tab H Memo,  
“Request to review par. 313 of SFFAS 7 Debt Cancellation”  
*(This provides more detail regarding this topic.)***



**October 4, 2019**

Memorandum

MEMBER ACTIONS REQUESTED:

- Respond to staff questions on p.13 by October 16<sup>th</sup>

To: Members of the Board  
From: Melissa L. Batchelor, Assistant Director  
Through: Monica R. Valentine, Executive Director  
Subj: Request to review par. 313 of SFFAS 7 Debt Cancellation– **Tab H<sup>1</sup>**

**MEETING OBJECTIVES**

The objective of this session is to consider whether paragraph 313 of SFFAS 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting* that pertains to debt cancellation needs to be revised.

**BRIEFING MATERIAL**

This memo presents background information regarding a request for guidance. The staff analysis is attached along with questions for the Board on page 13. You may electronically access all of the briefing material at <http://www.fasab.gov/board-activities/meeting/briefing-materials/>.

**Attachment A- Staff Analysis**

**Attachment B- Letter from Department of Homeland Security to Treasury, Bureau Fiscal Service**

**Attachment C- Excerpt from Department of Homeland Security 2018 Annual Financial Report**

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## **BACKGROUND**

As noted, Treasury and OMB requested that FASAB review paragraph 313 of SFFAS 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting* that pertains to debt cancellation to determine if it needs to be revised. Specifically, issues were raised during 2018 agency audits related to the accounting treatment of a Congressional \$16 billion cancellation of debt that impact several reporting entities and resulted in a material weakness being reported at one agency.

## **PHASE**

This potential project is in the research and development phase.

## **NEXT STEPS**

The next steps depend on Board member feedback and answers to the staff questions. If members agree that paragraph 313 needs to be updated, staff will work on proposed revisions. Staff has also presented options for the Board to consider in moving forward. For example, the amendment to paragraph 313 may be in a future Omnibus or a separate Statement. Much of this would be based on Board preference, scope of the amendments, and the timing and potential of topics for the next Omnibus.

## **MEMBER FEEDBACK**

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**Attachment A-  
Staff Analysis-Debt Cancellation Issue - SFFAS 7, paragraph 313**

**Treasury and OMB Request:**

Treasury and OMB requested that FASAB review paragraph 313 of SFFAS 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting*, to determine if it needs to be revised or clarified. Specifically, they believed there may be a potential disconnect in requirements related to debt cancellation for financial reporting purposes.

The relevant language from SFFAS 7 is:

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.

**2018 Issue**

Treasury and OMB presented a request for guidance based on an issue raised during the FY2018 audit cycle. Previously, FEMA borrowed \$16 billion from Treasury and the agencies were showing a payable/receivable relationship for that amount. Public Law 115-72 relieved the National Flood Insurance Fund (FEMA) of this liability by cancelling the debt. See the language below. Pursuant to a provision in a supplemental appropriations act, Congress cancelled \$16 billion of the Federal Emergency Management Agency (FEMA, an agency of the Department of Homeland Security) debt to the Treasury Department for the National Flood Insurance Program (NFIP).

PUBLIC LAW 115–72—OCT. 26, 2017:

SEC. 308. (a) Notwithstanding sections 1309, 1310, and 1310a of the National Flood Insurance Act of 1968 (42 U.S.C. 4016– 4017a) and section 15(e) of the Federal Flood Insurance Act of 1956 (42 U.S.C. 2414(e)), and any borrowing agreement entered into between the Department of the Treasury and the Federal Emergency Management Agency, of the indebtedness of the Administrator under any notes or other obligations issued pursuant to section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) and section 15(e) of the Federal Insurance Act of 1956 (42 U.S.C. 2414(e)) that is outstanding as of the date of the enactment of this Act, **an amount of \$16,000,000,000 is hereby cancelled. To the extent of the amount cancelled, the Administrator and the National Flood Insurance Fund are relieved of all liability to the Secretary of the Treasury** under any such notes or other obligations, including for any

interest due under such notes and any other fees and charges payable in connection with such notes, and the total amount of notes and obligations issued by the Administrator pursuant to such sections shall be considered to be reduced by such amount for the purposes of the limitation on such total amount under such section 1309(a). (b) The amount of the indebtedness cancelled under subsection (a) may be treated as public debt of the United States. (c)(1) This section is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)). (2) The amount provided in this section is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

## **Discussion with FASAB Counsel**

Due to PL 115-72 language not specifying how the debt cancellation was to be funded, FASAB staff asked FASAB's general counsel (GC) for any legislative insights for debt cancellation legislation. Specifically, if there is anything implied regarding how it should be funded? GC was not aware of any legal guidance on how agencies should carry out an appropriations act directing that debt owed by another federal entity be cancelled. One point noted was that it could be considered analogous to a waiver under the federal debt collection statutes, but it would be by analogy only—those laws on their face wouldn't apply to this kind of situation.

FASAB staff also notes that when Congress enacts a public law that cancels or forgives debt, sometimes they may include appropriation language but in other instances, they may not. FASAB staff inquired of GC if there were particular circumstances for each. The short answer is that GC was not aware of any consistent practices in that regard. It's hard to make general statements, as there is a lot of variation in how each individual appropriations account and program-authorizing legislation is written.

Congress may use different legislative language in different situations. It's not bound to using one particular approach, and there aren't legal definitions of the terms used that would apply across all laws, so you have to look at the language of each statutory cancellation individually. Typically, Congress won't specify the mechanics of how to achieve the cancellation. It will be up to the relevant agencies to carry out, working in conjunction with central offices such as Treasury and others to ensure government-wide procedures are in place.

GC noted in the flood insurance example, Treasury did not need an appropriation of new budget authority because they have standing authority to manage the General Fund of the U.S. government<sup>2</sup> (or often referred to as the "Treasury General Fund") among other things, satisfy the cash needs of federal entities exercising statutory borrowing authority. It should be noted, this could have been accomplished by appropriating funds to the borrowing agency, with instruction that it be used to pay off borrowing from Treasury. In other instances, though, budget authority might be needed, such as to cancel/forgive a debt covered by the Federal Credit Reform Act.

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<sup>2</sup> The General Fund is a separate reporting entity from Treasury.

## SFFAS 7

As noted, staff was requested to review SFFAS 7, paragraph 313. The relevant language from SFFAS 7 is:

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.

Paragraph 313 is part of Appendix B, Guidance for the Classification of Transactions in SFFAS 7. Appendix B provides authoritative<sup>3</sup> guidance on which transactions should be classified as exchange transactions and which should be classified as nonexchange transactions or other financing sources. Specifically, the appendix provides guidance for the classification of specific transactions based on the standards for accounting for revenue and other financing sources, and the reasoning behind these standards as explained in the Introduction and the Basis for Conclusions. Cancellation of debt is included under Intragovernmental Transactions: Nonexchange transactions—intragovernmental: gains and losses.

Staff also notes that SFFAS 7, Basis for Conclusions provides discussion about the budgetary process and its linkage to accounting. Certain paragraphs provide detail about budget authority, as included below:

209. The budgetary process provides a component entity with budgetary resources through appropriations acts. Budget authority may be provided in the form of appropriations, borrowing authority, contract authority, or spending authority from offsetting collections. An appropriation may make funds available from the General Fund, special funds, or trust funds—including amounts received from earmarked taxes—or may authorize the spending of offsetting collections credited to expenditure accounts. Budgetary resources also include unobligated balances remaining from prior reporting periods and a number of adjustments (e.g., recoveries of prior year obligations). Execution of the budget includes the obligation of budgetary resources and the outlays to liquidate the obligations.

210. Borrowing authority is sometimes used instead of appropriations to incur obligations and make payments to liquidate them out of borrowed money. However, borrowing money under this authority does not change the net position of the entity. The liability created by the borrowing is recorded along with the related asset (the cash borrowed). Repayment of the liability later will normally require the use of an offsetting collection or an appropriation. Assets acquired as a result of borrowing may be later amortized or

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<sup>3</sup> Appendix B SFFAS 7 is the only Appendix of an SFFAS that has authoritative status.

written off and become part of an entity's costs. When this occurs, or in the unusual event that the borrowing finances expenses rather than assets, the entity's net position will be reduced.

211. Contract authority is not a reportable financing source because it only allows agencies to incur obligations in advance of receiving funds to pay for any resulting liabilities. The funds to liquidate any resulting liabilities will come from an appropriation or offsetting collections. For financial statement purposes, a financing source is recognized in accordance with the appropriate accounting standards for the type of financing received to liquidate the liability. Under past practice the financing was recognized at the time liabilities were incurred, but under the new standard the financing will not be recognized until liquidating appropriations are made available, which may be in the same reporting period as the liability is incurred or a later period.

212. Appropriations, including permanent indefinite appropriations, are the most widely used form of budget authority. When obligated by orders for, or receipt or provision of, goods, services, or benefits, they are reflected as obligations incurred. 43 When used, appropriations are accounted for as an inflow of resources (i.e., an other financing source) in calculating net results of operations for the reporting period.

**FN43 Amounts appropriated to liquidate contract authority or repay debt are not available to incur new obligations and hence are not considered budget authority.**

### **Treasury Guidance (posting logic)**

Due to PL 115-72 language not specifying how the debt cancellation was to be funded, DHS/FEMA consulted with Treasury Bureau of Fiscal Service (BFS) which then led to a series of meetings. Treasury and OMB (in consultation with their counsel) determined what actions should be taken. They determined that FEMA would receive a "negative surplus warrant" to repay Treasury.

Per the Treasury guidance, DHS/FEMA was required to record the debt cancellation as a budgetary financing source "other adjustment" on their SCNPs and to show this financing source as having been used. Therefore, the Treasury guidance required an increase to DHS's Fund Balance with Treasury (FBWT) to implement the cancellation although there was no appropriation provided. All counsels (including OMB and Treasury lawyers) concurred that the debt cancellation did NOT constitute an appropriation.

Per Treasury, they believed the negative surplus warrant to be the appropriate mechanism because it is the only available method to increase DHS's FBWT. Treasury explained the negative surplus warrant constituted a budgetary resource for DHS and its use to cancel FEMA debt constituted a use of budgetary resources.

The posting logic with illustrative transactions is included below:

**Posting Logic 411601 Debt Forgiveness - Cancellation of Debt Adjustment**

**Illustrative Transactions**

1A. To record the cancellation of debt to retire debt in P.L. 115-72. The agency initiates the requests for Treasury to process the negative surplus warrant. The negative surplus warrant should reference that "A debt owed to the U.S. Treasury has been cancelled per P.L. 115-72."			
<b>Revolving Fund Expenditure Account TAFS 70X4236</b>			
	<b>DR</b>	<b>CR</b>	<b>TC</b>
<b><u>Budgetary Entry</u></b> 411601 Debt Forgiveness - Cancellation of Debt Adjustment 445000 Unapportioned Authority	16,000,000,000	16,000,000,000	New A200
<b><u>Proprietary Entry</u></b> 101000 Fund Balance With Treasury 310600 Unexpended Appropriations - Adjustments	16,000,000,000	16,000,000,000	
1B. To record the anticipated nonexpenditure transfer to the Bureau of the Fiscal Service.			
<b>Revolving Fund Expenditure Account TAFS 70X4236</b>			
	<b>DR</b>	<b>CR</b>	<b>TC</b>
<b><u>Budgetary Entry</u></b> 445000 Unapportioned Authority 404800 Anticipated Transfers to the General Fund of the U.S. Government - Prior- Year Balances	16,000,000,000	16,000,000,000	A142
<b><u>Proprietary Entry</u></b> None			

**Posting Logic 411601 Debt Forgiveness – Cancellation of Debt Adjustment**

2. To record principal repayments to the Bureau of the Fiscal Service via nonexpenditure transfer.			
Revolving Fund Expenditure Account TAFS 70X4236			
	DR	CR	TC
<b>Budgetary Entry</b>			
404800 Anticipated Transfers to the General Fund of the U.S. Government – Prior-Year Balances	16,000,000,000	16,000,000,000	B120
414700 Actual Repayments of Debt, Prior-Year Balances			
<b>Proprietary Entry</b>			
251000 Principal Payable to the Bureau of the Fiscal Service Fund Balance With Treasury	16,000,000,000	16,000,000,000	B134
And			
310700 Unexpended Appropriations - Used	16,000,000,000		
570000 Expended Appropriations		16,000,000,000	
3. Reversal of accrued interest payable. Bureau of the Fiscal Service waives the interest due and payable and reduces the interest rate to 0%			
Revolving Fund Expenditure Account TAFS 70X4236			
	DR	CR	TC
<b>Budgetary Entry</b>			
490100 Delivered Orders – Obligation, Unpaid	22,232,142.86	22,232,142.86	B120
461000 Allotments – Realized Resources			
<b>Proprietary Entry</b>			
214100 Accrued Interest Payable - Loans	22,232,142.86		
631000 Interest Expenses on Borrowings from Bureau of Fiscal Service		22,232,142.86	B134

## **Discussion with DHS/FEMA**

FASAB staff held a teleconference to obtain the views from representatives from DHS, FEMA and DHS/OIG.

The representatives from DHS and FEMA explained that there were several meetings between DHS/FEMA, Treasury and OMB regarding this issue. DHS/FEMA explained that they believed the cancellation of debt should be recognized as non-exchange gain in accordance with SFFAS 7. However, after several meetings, Treasury BFS developed and issued new posting logic, which was added to the TFM in August 2018. This was intended to enable recording cancellation of debt where there is no appropriation warrant. DHS and FEMA were uncomfortable with the posting logic, which included the "negative surplus warrant" to make it appear that FEMA was appropriated \$16 billion to repay debt. Based on discussions, most of the decisions were driven by those from the OMB Budget Review Division (consistent with legal counsel guidance).

Despite concerns, DHS/FEMA prepared September 30, 2018 financial statements in accordance with the Treasury prescribed posting logic. During the FY 2018 audit of DHS, the auditors identified this reporting treatment as a material weakness. In order not to lose the unmodified opinions on their AFR and closing package audits, DHS made the correcting entry required by the auditors to undo the posting logic, and recognize a non-exchange gain for \$16 billion which was reflected in both DHS's AFR and the closing package financial statements.

See **Attachment B- Letter from Department of Homeland Security to Treasury, Bureau Fiscal Service**. Copies of this letter were also sent to the OMB Deputy Comptroller for Federal Financial Management and the FASAB Executive Director so that the issue may be resolved. This was also what led to the request by Treasury and OMB.

## **Discussion with Treasury ODCFO**

FASAB staff held a teleconference to obtain the views from representatives from Treasury, Office of the Deputy Chief Financial Officer (ODCFO) and Treasury, Federal Investments and Borrowings Branch (FIBB).

The ODCFO and FIBB representatives shared that they believed OMB (along with their counsel) was heavily involved in the transactions and the process throughout. Also, Treasury's general counsel had been involved throughout the process when assessing the public law. A key factor at the time was whether appropriation language could be added to the public law because it had not been included initially. While most agreed it could have been and also agreed that there was no desire to not include appropriation language, it may be time consuming or difficult to do so at such a late stage. Therefore, OMB and Treasury came up with an accounting mechanism to allow the

necessary authority to liquidate the debt. In essence, it appeared as if an appropriation had been provided to repay the debt.

The ODCFO and FIBB representatives could not speak specifically to the posting logic because that was determined by OMB and Treasury, Fiscal Service. However, ODCFO and FIBB accepted the posting logic presented because it was agreed upon by counsel and, in their view, FEMA was provided with the financing source to cover the liability and Treasury was made whole.

### **Discussion with OMB and Treasury, Fiscal Service**

FASAB staff held a teleconference to obtain the views from representatives from Treasury, Bureau Fiscal Service and the Office of Management and Budget. The representatives were clear that the legal counsel from Treasury and OMB made the interpretations of PL-115-72 and came to certain agreements. From those decisions, the Treasury posting logic followed the source or agreements determined by counsel.

Counsel determined that the language did not support an appropriation. Because there was no authority for an appropriation or a warrant, OMB and Treasury budget and accounting staff determined a negative surplus warrant should be used to provide the budgetary financing resource. In effect, it was a non-appropriation providing budget authority via the funding mechanism created through a negative surplus warrant.

Typically, an appropriation or warrant increases budget authority. A surplus warrant decreases budget authority. A negative surplus warrant is used to increase budget authority. FASAB staff asked for examples of when a negative surplus warrant would be used. Though it is not used routinely, a negative surplus warrant can be used if an agency erroneously returns money to Treasury. Treasury would issue a negative surplus warrant to provide the authority and fund balance to the agency. In the past there have also been negative surplus warrants completed for single annual year HHS TAS for the purposes of "upward adjustments for returned Indefinite authority related to prior year unpaid obligations" and these are now and moving forward being processed as new Indefinite warrants to the expired period of availability TAS.

Treasury representatives confirmed that the negative surplus warrant for the \$16 B for FEMA legislative debt forgiveness was a unique and extraordinary occasion that Treasury and OMB Chief Counsels opined did not meet the legal requirements for an appropriation. The negative surplus warrant was the only accounting and budget mechanism to record FBWT and authority with the General Fund for FEMA's use.

Given the uniqueness of the negative surplus warrants and that they are rare; Treasury representatives stated there has been a shift away from this type of transaction for several reasons, including discussions with OMB on proper posting and reporting changes.

Given the above (that a negative surplus warrant was issued) FEMA received \$16 Billion that it then transferred to Treasury to repay their debt. This is the main reason that the posting logic transactions show no gain/loss, because in their perspective the payable/debt was repaid with the resources provided via the negative surplus warrant.

Certain representatives from Treasury and OMB believe that the FASAB guidance surrounding debt cancellation may not be appropriate because debt is not typically written off between federal entities. The representatives noted that they were not aware of any instances where a gain or loss had been recognized by reporting entities due to debt cancellation as provided by par. 313 of SFFAS 7. The representatives recalled another example from approximately 10 years ago where Congress provided relief but also provided the appropriation in the same legislation. However, no gain or loss was recognized by the respective reporting entities.

The representatives acknowledge the current Technical Bulletin 2019-1, *Loss Allowance for Intra-governmental Receivables* that is presently out for comment, but noted the practice as it relates to Treasury securities and loans differ because they were not aware of write offs being recorded.

### **Staff Analysis**

FASAB staff gathered additional information by meeting with the affected and pertinent agencies to gain a better understanding of the issue so that staff may provide the Board with information to determine if SFFAS 7, paragraph 313 regarding debt cancellations needs to be updated, revised, or clarified.

Given past experience; Congress may use different legislative language in different or even similar situations. It's not bound to use specific language or particular approaches. Typically, Congress won't specify the mechanics of how to achieve the legislative intent of cancellations. It will be up to the relevant agencies, working in conjunction with central offices, to carry out the intent of the legislation.

In summary, based upon the opinion of OMB and Treasury Chief Counsels, Treasury executed a negative surplus warrant to give FEMA authority to write off its debt. Treasury received "proceeds" through the negative surplus warrant and thus forgave the debt. SFFAS 7 provides that the forgiving entity (Treasury) has a loss and the forgiven entity (FEMA) has a gain. However, the transactions provided by Treasury, BFS were based on decisions made by Treasury and OMB Counsel, which included the budgetary transactions that look like financing (budgetary source) being given to FEMA to give to Treasury by the "general fund."

However, as explained above, DHS auditors interpreted SFFAS 7, paragraph 313, as requiring DHS to account for the debt cancellation as a gain from non-exchange financing sources on DHS FY18 Statement of Changes in Net Position (SCNP) rather

than as a budgetary financing source as prescribed by Treasury's guidance. Therefore, reversing entries were required.

While staff notes that this all eliminates in the government-wide consolidation—the question is does it matter whether the transaction is a gain/loss or a financing source on the respective agency's financial statements.

The Board has noted that the statement of net cost should reflect the costs of the reporting entity's activities and whether a gain/loss is reported would affect the entity's net cost of operations. The Board noted in developing SFFAS 7 that amounts appropriated to repay debt are not considered budget authority. Further, the Board also required that the cancellation of debt be a nonexchange gain to the entity that owed the debt and a nonexchange loss to the lender.

It is important to note that in this particular example, staff believes the key information is that federal policy makers' decisions may result in an indirect benefit to future policy holders. If insurance rates are supposed to be based on actual experience and the losses associated with the debt forgiveness (past insurance losses) are not factored into future rates, future policy holders may pay lower rates because of the debt forgiven. Staff believes disclosures would provide more relevant information and readers may have a better understanding of the economic substance of the transaction. Neither accounting treatment alone would provide this to readers—especially at the government-wide level because neither accounting treatment would make it apparent to readers because of eliminations.

At the DHS/FEMA component level – staff believes it is very important to highlight through disclosure that a government decision may result in relieving future policy holders of the obligation to make up past losses, if that is indeed the case. Note, please see **Attachment C- Excerpt from Department of Homeland Security 2018 Annual Financial Report** for what was reported in the FY 2018.

The main issue is whether the Board believes the accounting treatment of presenting a gain/loss on component level statement of net cost is still appropriate. The statement of net cost is intended to report the cost of programs and may be the key financial statement at the component level. Reporting a gain/loss on the statement of net cost might alert the reader to an unusual event and a note disclosure could explain the reason for the gain.

Alternatively, would reporting a gain/loss be potentially confusing or misleading to readers to show a gain/loss resulting from congressional action? Would it be more meaningful to highlight the financing source and provide a corresponding note disclosure?

**QUESTIONS FOR THE BOARD:** The above staff analysis provides the discussion and insights to prepare the Board to discuss the following questions:

**1. Does the Board believe par. 313 of SFFAS 7 is still appropriate and that cancellation of debt is a nonexchange gain to the entity that owed the debt and a nonexchange loss to the lender? Alternatively, does the Board believe it would be more appropriate as a Financing Source?**

**2. Does the Board believe par. 313 of SFFAS 7 should be revised or updated? This question goes beyond the gain/loss question. Specifically, the Board may believe par. 313 needs to be updated in general. For example, the paragraph may need updating to provide for general disclosures that may be relevant to debt cancellation—such as the legal authority authorizing the cancellation and a summary of the impact<sup>4</sup> of the cancellation on the reporting entities. Further, there may be other aspects of the paragraph that need refreshing which may lead the Board to replacing par. 313 versus amending certain sentences.**

**3. If the Board believes par. 313 needs updating, is the scope narrow enough that it could be included in the next Omnibus? Alternatively, would the Board prefer to issue a separate Statement to amend SFFAS 7? Much of this would be based on Board preference, scope of the change and guidance, and the timing and potential of topics for the next Omnibus.**

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<sup>4</sup> For example, in the scenario presented in the staff analysis for DHS/FEMA and Treasury, it may be relevant to disclose the impact on current and future users/policyholders, including if charges for the goods and services provided are based on past costs and the costs associated with the canceled debt are not going to be factored into future charges, then this fact should be disclosed.

**Attachment C - FASAB Staff Position Paper for joint  
NSA/NGA/OIG/KPMG/FASAB March 2019 meeting**

## ISSUE

FASAB received a technical inquiry from the National Security Agency (NSA) regarding a difference between NSA management and their auditor, KPMG, application of Statement of Federal Financial Accounting Standards 1, *Accounting for Selected Assets and Liabilities*. The issue relates to how monies received in non-fiduciary deposit funds from non-federal sources in anticipation of an order should be reported and presented on the financial statements. The non-entity funds are held in deposit at the General Fund of the U.S. Government.

After further discussion, the National Geospatial-Intelligence Agency also joined NSA on the inquiry because this issue was presented in their Management Letter by KPMG. Although this matter was discussed with NSA, it was not cited as a Notification of Finding and Recommendation (NFR).

Note that management and the auditor agree that the deposits are non-entity assets.<sup>1</sup> The disagreement is with the presentation of the asset on the balance sheet. The auditor believes it should not be an intragovernmental (FBWT) asset, but instead should be reclassified to a nonfederal line on the balance sheet.

## STAFF RESEARCH

Based upon staff's review of FASAB literature, staff acknowledges a lack of clarity in SFFAS 1 due to the absence of a definition of "other non-federal non-entity FBWT" and other references to non-entity amounts. For example, SFFAS 1, par. 29 that discusses non-entity cash does not reference FBWT and makes it sound like this sort of cash is not really FBWT although there are other references to non-entity FBWT in the SFFAS. SFFAS 1, par. 29 states:

29. **Non-entity cash.** Non-entity cash is cash that a federal entity collects and holds on behalf of the U.S. government or other entities. In some circumstances, the entity deposits cash in its accounts in a custodial capacity for the U.S. Treasury or other federal component entities, or in a fiduciary capacity for non-federal parties.
- a. Non-entity cash recognized on the balance sheet should be reported separately from entity cash.
  - b. Non-entity cash meeting the definition of a fiduciary asset should not be recognized on the balance sheet, but should be disclosed in accordance with the provisions of SFFAS 31, *Accounting for Fiduciary Activities*.

Management and the auditor agree that the deposits are non-entity assets.

Staff also notes that several other agencies have somewhat similar type scenarios and they report the deposit funds as intragovernmental FBWT on the balance sheet and disclose the portion that is non-entity in the notes to the financial statements. For example, Department of Commerce and the Security and Exchange Commission do so.

This is consistent with requirements to show non-entity assets separately. Par. 26 of SFFAS 1 provides "Non-entity assets recognized on an entity's balance sheet should be segregated from

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<sup>1</sup>"Entity assets are those assets which the reporting entity has authority to use in its operations. Non-entity assets are those assets that are held by an entity but are not available to the entity." (SFFAS 1, par. 25)

entity assets. An amount equal to non-entity assets should be recognized as a liability (due to Treasury or other entities) recognized on the balance sheet.” OMB’s Form and Content directs that the distinction be disclosed in the notes, and not on the face of the Balance Sheet.

In regards to the intragovernmental classification, the differing views relate to paragraph 31 of SFFAS 1 (as amended by SFFAS 31, *Accounting for Fiduciary Activities*).

SFFAS 31 may have contributed to the lack of clarity and differences regarding application of the intragovernmental classification. SFFAS 31 amended par. 31 of SFFAS 1 as follows:

This standard affects current standards that define Fund Balance with Treasury. Paragraph 31 of SFFAS 1 is amended as follows:

[31] A federal entity’s fund balance with the Treasury (**FBWT**) is the aggregate amount of funds in the entity’s accounts with Treasury for which the entity is authorized to make expenditures and pay liabilities. **FBWT** is an intragovernmental item, **except for fiduciary or other non-federal non-entity FBWT**. From the reporting entity’s perspective, **the reporting entity’s FBWT** is an asset because it represents the entity’s claim to the federal government’s resources. However, from the perspective of the federal government as a whole, it is not an asset; and while it represents a commitment to make resources available to federal departments, agencies, programs and other entities, it is not a liability. **In contrast, fiduciary and other non-federal non-entity FBWT is not intragovernmental, and it represents a liability of the appropriate Treasury component and of the federal government as a whole to the non-federal beneficiaries.**

**Preliminary Interpretation of staff** - Note that the amendment to SFFAS 1 emphasizes aspects of the then new fiduciary activity reporting requirements by using the term “non-federal beneficiaries” and referring to the SFFAS 31 requirement that a liability be reported on the government-wide balance sheet for all fiduciary deposits. While the amounts received by NSA and NGA are from a non-federal fund source and deposited for unfilled orders, these amounts do not qualify as fiduciary activity because SFFAS 31 specifically excludes unearned revenue from fiduciary activities (par. 13). In this case, it would be inconsistent to apply the undefined term “other non-federal non-entity deposit funds” to this activity. FBWT is an intragovernmental aggregate account between federal agencies and the General Fund of the U.S. Government. It is where funds are kept until needed to fulfil the non-entity orders. Staff notes that this presentation is also consistent with guidance provided by OMB and prevalent practice at other agencies.

Staff believes the inclusion of “other non-federal non-entity deposit funds” in paragraph 31 of SFFAS 1 was to provide similar treatment for activities that were very closely aligned with fiduciary activity rather than to require similar treatment for activities that were explicitly excluded from the provisions of SFFAS 31.

### ***Outreach to Treasury***

FASAB staff consulted with Treasury Fiscal Services to determine if they may have information that should be considered as it relates to deposit funds or FBWT. Treasury representatives conveyed that they believed that the FBWT should be intragovernmental for the non-fiduciary deposit fund.

Treasury's position is that FBWT should always be reported as intragovernmental because the agencies are not holding the funds. The funds are being held by the General Fund of the U.S. Government. Treasury noted that in the past few years, the General Fund has been stood up as a stand-alone reporting entity in the government. Specifically, it is one of the 40 significant reporting entities listed in the Financial Report of the U.S. Government. By standing up the General Fund's reporting, the accounting model was made complete for the government.

In this example, this means that the agency has a FBWT and it eliminates with the General Fund's liability for FBWT. Therefore, FBWT is always intragovernmental. Then on the General Fund's financial statements is where the true cash is reported as an asset for the government. This roles up with the consolidation of the Department of Treasury's financial statements to the government wide financial statements and is reported as Cash and Other Monetary Assets. Therefore, if NSA reported these monies on a nonfederal line on the balance sheet then the asset would be double counted on the government wide financial statements.

Treasury explained if this activity was fiduciary then the General Fund identifies the fiduciary deposit funds and records a liability, but it is not eliminated and is therefore, reported on the government wide financial statements. This would be in accordance with SFFAS 1 to show the liability owed to non-federal sources.

## ***History***

After performing additional review, staff noted that this amendment to SFFAS 1 was developed between the Board deliberations of the two exposure drafts that were released for fiduciary activities. Specifically, the first exposure draft was issued on April 23, 2003. Issues raised by respondents to that exposure draft caused the Board to revise its proposal and reissue in June 2005.

## ***Minutes***

Staff reviewed the minutes and briefing materials for insight behind the amendments, specifically for the time period after the release of the first ED and prior to the release of the second ED. See **Appendix 1 Fiduciary Activities, History of Board Minutes** for board meeting summaries related to this topic.

However, staff could not identify a reason for the phrase "or other non-federal non-entity FBWT" to be included. In fact, based on staff's review, there would be indication that the Board intended for the current treatment to continue for items not meeting the definition of fiduciary.

Brief excerpts from Board minutes to support this include:

### October 2003

- "This is different from deposits into a bank where the funds are reported as assets of the bank along with a corresponding liability."
- Mr. Anania gave an example of someone receiving a deposit for future services; he noted that in that relationship the holder of the deposit has control over that deposit and should report it on its Balance Sheet as an asset and a liability. Ms. Carey stated that the example is more like a bank/depositor relationship as opposed to a trust relationship.
- She said contributions from non-Federal participants did not constitute fiduciary activity.

## October 2004

- Mr. Patton said that, to pick up on Mr. Anania's point, there is a different accountability going on, for fiduciary items versus program items.
- Mr. Dacey asked Ms. Allen if the amounts of non-entity cash represented advances from foreign governments for something that the foreign governments were purchasing. Upon her affirmation, Mr. Dacey said that this sounded more commercial than fiduciary.
- Mr. Dacey said that some items, such as the DoD Foreign Military Sales amounts, appeared to be ordinary advances to him, and so he would question removing them from the balance sheet. Mr. Mosso agreed.

## December 2004

- Mr. Schumacher asked where Treasury FMS Category 1 activities are currently reported. Staff replied that current standards required this category to be included in the component entity's principal financial statements. Mr. Schumacher asked how the proposal would change that. Staff replied that for this category, Alternative 3 would not make much of a change. Staff noted that although this category of funds meets the definition criteria for fiduciary activities, the Board's primary intended scope for the fiduciary activities exposure draft (ED) was Treasury FMS Category 3.
- Dr. Robinson referred to Treasury FMS Category 1 activities, and asked staff to confirm that they were currently reflected in the principal financial statements. Staff replied that they should be; the assets would be reported on the balance sheet as non-entity assets with an offsetting liability. Mr. Farrell asked if this would continue under the three alternatives. Staff replied that this would continue only under Alternative 1. Dr. Robinson asked if Alternative 3 would be a lot more work for agencies to put this activity (Treasury FMS Category 1) on a separate financial statement, or whether it would be the same in terms of cost/benefit. Staff replied that Alternative 3 would not have much of an impact on Category 1, but that staff would like to further research the actual activities in all three Treasury categories and report back to the Board at the next Board meeting. Staff did mention that only the central payroll agencies would be expected to have large balances for this category of activity. Staff said that any agencies that might have large unidentified balances in those deposit funds might have to do more work to research and correct the amounts, but that was extra work that should be done.
- Ms. Comes noted that staff had discussed the possibility of excluding Treasury Category 1 from the proposed fiduciary reporting requirements, and that it appeared to be a matter of preference or significance as to whether they were excluded or not. Ms. Comes noted that staff planned to obtain additional information about this category, but that it was a possibility that the Board might wish to exclude this category from the proposed reporting requirements.
- Staff said that Alternative 1 required those amounts to be reported as assets with an offsetting liability, and that the Board could retain this treatment even under the other alternatives by excluding this category. Staff said that this would be preferable to removing this category from the balance sheet.
- Mr. Reid asked whether an asset is currently reported. Staff replied that current standards require an asset with an offsetting liability. Mr. Dacey asked whether the asset was segregated from entity assets in the financial statements. Staff replied that the distinction between entity

and non-entity assets is displayed in a note disclosure, in accordance with the OMB's Form and Content instructions. Mr. Dacey said that it would be impractical to remove non-entity Fund Balance with Treasury from the balance sheet. He said that recognizing a liability would be the most appropriate treatment.

#### March 2005

- Ms. Robinson asked if the revised ED should include an explicit statement that deposit funds not meeting the definition of fiduciary activity should be reported on the face of the principal financial statements. Mr. Mosso said that there would be no harm in adding a positive statement about deposit funds. Staff offered to draft an additional sentence, such as "For example, a deposit fund that does not meet the definition of fiduciary activity should be reported on the balance sheet, in accordance with current standards."

Staff notes that in the October 2004 briefing materials, the question "Should the proposed Fiduciary Activities standard address all funds held by Federal agencies that are not Government-owned?" was posed to the Board. It was explained that in doing so, it would pull in deposit funds that include certain advances from non-Federal<sup>2</sup> parties and payroll withholdings due to state and local governments. In doing so, Non-Federal nonentity assets would no longer be combined with Government-owned assets on the Balance Sheet; but this appeared to go beyond the scope of the original purpose of the Fiduciary Activities project, which was the fiduciary portion of "dedicated collections."

The discussion of deposit funds continued in December 2004 when staff presented three categories of fiduciary and fiduciary-like activities described in the Treasury Financial Management Service's criteria for deposit funds. Specifically, the briefing paper provided FMS establishes deposit fund accounts to record monies that do not belong to the Federal Government. Deposit funds are a liability in the Government's central summary general ledger since those assets do not belong to the Government.<sup>3</sup> The deposit fund account (liability) classification is proper for any account that meets one of the following three criteria:

- 1) Monies withheld from Government payments for goods and services received. Agencies may treat this transaction as a deposit fund liability only when they have charged a budget account and the Government is holding the funds pending payment (for example, payroll deductions for savings bonds or State income taxes).
- 2) Monies the Government is holding awaiting disposition based on a legal determination or investigation. This category includes monies in dispute (between the Government and outside parties) where ownership is in doubt and there is no present basis for estimating ultimate distribution.
- 3) Deposits received from outside sources for which the Government is acting solely as a banker, fiscal agent, or custodian. This includes certain cash and investments held outside of Treasury.

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<sup>2</sup> Non-Federal nonentity assets are assets that are not government-owned. Federal nonentity assets are assets that are not available to the component agency, but are available to another component within the Federal government.

<sup>3</sup> Note from FASAB staff: Deposit funds are self-balancing sets of accounts. The assets generally consist of Fund Balance with Treasury (FBWT) and/or investments in Treasury securities, and the liabilities consist of accounts payable and amounts due to beneficiaries. In Treasury's central summary general ledger, the FBWT and investments in Treasury securities are eliminated, leaving only the liability.

In reviewing the minutes for October 2004 and December 2004, staff only sees a preference by the Board to exclude such transactions from the fiduciary activity project. Staff does not see any reference to amending SFFAS 1 for such transactions.

### ***Final SFFAS 31***

In fact, the language in par. 6 of the Introduction to SFFAS 31 appears to be in line with the intent. It states:

This standard also clarifies the definition and reporting for fiduciary cash that is on deposit in the U.S. Treasury. Fiduciary cash deposits are referred to as **Fiduciary Fund Balance with Treasury** (Fiduciary FBWT). This deposit activity is not fully addressed in Statement of Federal Financial Accounting Standards 1, *Accounting for Selected Assets and Liabilities*. SFFAS 1 explains that “in some circumstances, the entity deposits cash in its accounts in a fiduciary capacity for the U.S. Treasury or other entities.”<sup>2</sup> However, some unique aspects of Fiduciary FBWT are not included in SFFAS 1. For example, SFFAS 1 defines FBWT as “the aggregate amount of funds in the entity’s accounts with Treasury for which the entity is authorized to make expenditures and pay liabilities.” SFFAS 1 further explains that “Fund Balance with Treasury is an intragovernmental item.” However, Fiduciary FBWT is not an intragovernmental item; the owner of Fiduciary FBWT is a non-Federal party. This standard amends SFFAS 1 to distinguish fiduciary FBWT from Federal component entities’ FBWT.

Further, par. 7 adds:

Numerous “fund groups<sup>3</sup>” are used in reporting to the Treasury FMS and the OMB. For example, “**deposit funds**” may be used for monies that do not belong to the Federal Government. Regardless of how a fund group may be classified in reporting to the Treasury FMS or to the OMB, only those activities that meet the definition of fiduciary activity promulgated in this standard are subject to the reporting requirements of this standard. Activities that do not meet the definition of fiduciary activities promulgated in this standard are not subject to the reporting requirements of this standard. Deposit funds that do not meet the definition of fiduciary activities, and therefore are not disclosed in the fiduciary note disclosure, should be recognized in the principal financial statements.

Staff also notes that par. 13 of SFFAS 31 provides for exclusions and specifically states:

**Unearned revenue** should not be reported as fiduciary activity and should be recognized as a liability in accordance with existing standards.<sup>8</sup> Assets collected or received by a Federal entity that represent prepayments or advance payments for which the Federal component entity is expected to provide goods or services should not be classified as fiduciary activity. This exclusion applies broadly and applies to amounts a customer advances for orders that may be placed in the future or deposits made as part of a bid or settlement process, even if these amounts are not specifically classified as “unearned revenue” by the entity due to uncertainty about the ultimate realization of the revenue

The basis for conclusions par. 49 addresses the specific topic of advances:

Similarly, Federal component entities may hold advances received from customers for future sales of goods or services. Such advances represent unearned revenue. One Federal agency, in its written response and oral testimony, noted that certain advances received appear to meet the definition of fiduciary activity. However, this standard

excludes unearned revenue from the fiduciary reporting requirements because unearned revenue is a routine operational activity and the Board believes that fiduciary reporting of unearned revenue is not warranted.

It also provides the following regarding the amendments in par. 60-61:

60. The Board promulgates standards for activities that are defined by specific characteristics, and not by how an activity may be labeled in the budget or reported to the Treasury Financial Management Service. Paragraph 370 of SFFAS 7 addressed the group of funds designated as “deposit funds” as follows:

[370] Deposit funds are accounts outside the budget that record amounts that the Government (a) holds temporarily until ownership is determined or (b) holds as an agent for others. The standards and guidance in this Statement do not apply to deposit funds except insofar as a particular deposit fund may be classified as part of a Federal reporting entity or a disclosure may be required due to a fiduciary relationship on the part of a Federal reporting entity toward a deposit fund.

61. The Board decided that this paragraph was not sufficiently clear that all deposit funds that are not disclosed in the fiduciary note should be recognized in the principal financial statements of the Federal component entity. Accordingly, paragraph 370 of SFFAS 7 is rescinded by this standard and an explanatory sentence was added to paragraph 7 in the introduction section of this standard. All deposit funds that do not meet the definition of fiduciary activities and therefore are not disclosed in the fiduciary note must be recognized on the face of the financial statements.

Staff notes that SFFAS 31 is about fiduciary activities and resulting amendments. It is consistent with that in all places except in this particular amendment to SFFAS 1 where “non-federal non-entity FBWT” is included without explanation. Typically, this would be explained in the basis for conclusions, especially since it is a change from the previous exposure draft that had been released.

The only reasonable explanation would be that it intended to cover FBWT in non-fiduciary deposit funds that would not fully meet the definition of “fiduciary” but that would not be appropriate to consolidate (even as non-entity assets.) However, staff does not have examples and cannot find support for this. In summary, staff can find no reason in the minutes or briefing papers that would support this additional phrase.

## **CONCLUSION**

The research, follow-up with Treasury, and review of the historical files (minutes and briefing papers) supports staff’s tentative conclusions.

Staff can find no reason or support for inclusion of the language “or other non-federal non-entity FBWT” in the SFFAS 1 amendments. As explained above, the minutes and all references within the final document do not support the inclusion of language because SFFAS 31 focus is on fiduciary activities and resulting amendments. This language would appear to go beyond that scope.

Also, as explained above, SFFAS 31 provides for certain exclusions, including, unearned revenue. For the amendments to be relevant the funds in question must arise from fiduciary activity but SFFAS 31 explicitly excludes unearned revenue from fiduciary activity (SFFAS 31,

par. 13). Therefore, it is unlikely that these amounts were intended to be considered “non-federal non-entity FBWT.”

Further there is an indication in the minutes, that there was a preference or the Board intended for the current treatment (at the time) to continue for items not meeting the definition of fiduciary.

As a result, FASAB staff believes the inclusion of “other non-federal non-entity deposit funds” in paragraph 31 of SFFAS 1 was to provide similar treatment for activities that were very closely aligned with fiduciary activity rather than to require similar treatment for activities that were explicitly excluded from the provisions of SFFAS 31.

Further, FBWT is an intragovernmental aggregate account between federal agencies and the General Fund of the U.S. Government. It is where funds are kept until needed to fulfil the non-entity orders. Staff notes that this presentation is also consistent with guidance provided by OMB and prevalent practice at other agencies.

FASAB staff encourages this to be accepted based on the research provided in this paper.