



October 6, 2022

**VIA ELECTRONIC SUBMISSION (DIRECTOR@FASB.ORG)**

Ms. Hillary Salo  
Chair, Emerging Issues Task Force  
Financial Accounting Standards Board  
401 Merritt 7  
PO Box 5116  
Norwalk, CT 06856-5116

**Re: File Reference No. 2022-004. Proposed Accounting Standards Update—  
Investments—Equity Method and Joint Ventures (Topic 323): Accounting for  
Investments in Tax Credit Structures Using the Proportional Amortization  
Method (a consensus of the Emerging Issues Task Force)**

Dear Ms. Salo:

The Securities Industry and Financial Markets Association (“SIFMA”)<sup>1</sup> appreciates the opportunity to comment on the *Proposed Accounting Standards Update—Investments—Equity Method and Joint Ventures (Topic 323): Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method (a consensus of the Emerging Issues Task Force)* (the “proposed ASU”). SIFMA supports the FASB’s efforts to improve the accounting for Investments in Tax Credit structures in a timely manner considering the recent proliferation of such transactions and the expectation that this trend will continue for the foreseeable future. SIFMA believes that the proposed ASU will improve reporting for these investments and should be implemented as soon as possible to facilitate wider application to more transactions.

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<sup>1</sup> SIFMA is the leading trade association for broker-dealers, investment banks, and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s nearly one million employees, we advocate for legislation, regulation, and business policy affecting retail and institutional investors, equity and fixed income markets, and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. With offices in New York and Washington, D.C., SIFMA is the U.S. regional member of the Global Financial Markets Association (GFMA).

SIFMA's detailed responses to the proposed ASU follow:

- **SIFMA supports expanding the ability to elect the proportional amortization method of accounting to all tax credit investments on a tax-credit-program by tax-credit program basis.**

SIFMA agrees that the option to apply the proportional amortization method should be expanded to all investments that meet the conditions in paragraph 323-740-25-1 because this method allows users of financial statements to better evaluate the investment performance of such investments which, by design, primarily earn their returns from the receipt of tax credits and other tax benefits rather than project cashflows. The proportional amortization method recognizes the net amortization and income tax credits and other income tax benefits as a component of income tax, such that pre-tax losses are not presented in the income statement. This facilitates evaluating investment performance on an after-tax basis which aligns with the investment objective.

However, the proportional amortization method should not be required. We believe allowing an election on a tax-credit-program<sup>2</sup> by tax-credit program basis will result in more consistent presentation for projects with similar underlying investment theses. SIFMA notes that, based on the criteria in paragraph 323-740-25-1, certain tax-credit-program investments will generally qualify for proportional amortization, others will qualify on a case-by-case basis<sup>3</sup>, while some programs will generally, but not always, not qualify. If proportional amortization were mandatory for all tax credit investments that met the conditions, that would result in providing investors mixed attribute accounting for projects with similar underlying investment theses and would make the individual set of financial statements less user-friendly.

Allowing the election on a tax-credit-program by tax-credit-program basis will enable reporting entities to clearly define tax-credit-programs and elect proportional amortization for those programs where the application of the method provides clear and consistent information across a defined category of tax-credit-program. At the tax credit program level, there are similarities in the economic features among investments and timing of receipt of credits. As such, the evaluation of whether the conditions to qualify for the proportional amortization method are met is generally more likely to result in a similar

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<sup>2</sup> See discussion below regarding factors to consider when identifying a tax credit program.

<sup>3</sup> As examples, programs that receive Production Tax Credits will sometimes qualify for proportional amortization and other times not. Also, programs that receive Investment Tax Credits will yield mixed results. In this instance, ASC 740 allows application of the deferral method of accounting. SIFMA believes that application of the deferral method of accounting for all such investments is favorable to the mixed application of proportional amortization for those that meet the criteria and the deferral method for those that do not.

outcome for investments under the same tax credit program. This will lead to a more consistent accounting presentation for investments that are similar in nature.

Certain tax credit programs may consist of investments that are generally uniform while other tax credit programs may have more variations due to differences in structuring. For example, within a tax credit program where there is more variation in cashflows among the investments that are otherwise similar, some investments may qualify for proportional amortization while others may not qualify due to not meeting the “substantially all” threshold per ASC 323-740-25-1(aaa). The reporting entity may determine that it would not be operationally practical or useful to financial statement users to present economically similar investments under two different accounting methods. In such cases, this can be avoided if the accounting policy election is on a tax-credit-program-by-tax-credit-program basis.

A tax-credit-program-by-tax-credit-program election should also contribute to more consistency in reporting across reporting entities for similar tax credit programs. For example, some reporting entities may otherwise be deterred from electing to apply the proportional amortization method to any of its investments (including LIHTC) if they are required to evaluate the conditions for all tax credit investments and their portfolio of tax credit programs is diverse. At the same time, other reporting entities that have portfolios that primarily held LIHTC investments would elect proportional amortization. This would result in inconsistent accounting across entities. Allowing the election on a tax-credit-program basis is more likely to ensure consistency across similar programs.

Additionally, performing the evaluation for all investments in tax credit programs is operationally burdensome especially as some investments are unlikely to meet the conditions to apply the proportional amortization method. Reporting entities should have the flexibility to weigh the benefit versus cost of applying the proportional amortization method, considering its own investment profiles and tax structures, and its definitions of tax credit programs.

- **Factors to consider when identifying a tax credit program**

To enhance comparability, SIFMA suggests that the Board include implementation guidance on factors reporting entities may consider when identifying a tax credit program. We consider the:

1. IRS [or state] tax code section that sets out the requirements for qualifying for the tax credits;
2. Type of tax credit (e.g., ITC vs. PTC); and
3. Type of underlying project (e.g., solar, on-shore wind, off-shore wind, carbon capture, energy storage, hydrogen, new markets, low-income housing, etc.).

For example, SIFMA believes solar ITCs and solar PTCs are different programs because they are governed under different sections of the IRS code and are different types of credits. Similarly, SIFMA believes wind PTCs and solar PTCs are different programs because they have different types of underlying project.

SIFMA also suggests that the Task Force clarify the language in the Basis for Conclusions about what constitutes a program. For example, paragraph BC5 refers to Renewable Energy Tax Credits (RETC) as a “program” but then goes on to give examples of RETC programs such as federal solar investment tax credits, on-shore wind production tax credits, and off-shore wind investment tax credits. We do not believe RETC is a single tax credit program. Rather, RETC is a broad term used to encompass multiple renewable energy tax credit programs.

- **Refundable tax credits should be included in the definition of “income tax credits and other income tax benefits”**

The proposed ASU amends ASC 323-740-25-1.aaa to exclude refundable tax credits from the definition of “income tax credits and other income tax benefits.” SIFMA believes this is not consistent with the objective of the proposed ASU. As noted in the Basis for Conclusions, paragraph BC5: “The types of tax equity projects and investments in those projects have continued to increase in recent years, including more entities that are starting to make tax equity investments in an effort to meet environmental, social, and governance (ESG)-related objectives and for certain regulated entities to meet their Community Reinvestment Act goals. In addition, a number of state-specific tax credit programs attract investors, and federal and state governments continue to discuss the creation of additional programs to incentivize certain activities.” Additionally, ASC 323-740-05-01, as amended within the proposal, clarifies that the standard provides “income tax accounting guidance on specific types of investments made primarily for the purpose of receiving income tax credits and other income tax benefits.” While refundable credits are not in the scope of ASC 740, refundable tax credits are tax benefits. They are economic incentives provided by taxing authorities and contribute to the investor’s decision to invest in the project. In addition, the recently enacted Inflation Reduction Act now allows for several existing and new renewable energy tax credits to be refundable by certain taxpayers. Excluding refundable tax credits from the definition may disqualify otherwise qualifying investments from the ability to apply proportional amortization.

- ***We believe that the FASB should continue its discussions and consider developing a more comprehensive model that will holistically address this growing and evolving investment class.***

SIFMA agrees that expanding the applicability of proportional amortization as per the proposed Update is a practical improvement that is both operable and auditable and should be implemented at this time. However, as discussed above, this activity has increased in recent years, and we expect it to increase for the foreseeable future. Further, we believe that some items that were beyond the scope of this project should be given more in-depth consideration after the issuance of this ASU.

In particular, SIFMA notes that many investments in Renewable Energy Tax Credit (RETC) programs will not meet the “substantially all” criterion. “Substantially all” is generally ascribed a threshold of 90% and transactions may straddle that bright line or fall somewhat short (as much as to 75%) even while the investment objective is primarily to receive tax credits and other tax benefits. SIFMA encourages further discussion of the appropriateness of the bar for application of proportional amortization being “substantially all.” If this criterion is reconsidered, we note that this will necessitate contemporaneously addressing (1) the positive yield criterion and (2) the accounting for cash receipts.

Additionally, SIFMA recommends that the future project address other issues including (1) whether the “significant influence” criterion should be retained, (2) whether entities that consolidate New Markets Tax Credit structures should be allowed to apply the proportional amortization method, (3) whether the amortization period ends at a “flip date”, “option-exercise” date or otherwise and (4) accounting for “Paygo” arrangements, among others.

- ***Additional comments***

SIFMA also supports:

- The scope and nature of the disclosures described in the proposed Update;
- Permitting firms to choose either the retrospective or modified prospective transition methods; and
- Allowing firms to early adopt.

Thank you for the opportunity to comment. Should you have any questions or require further information concerning any of the matters discussed in this letter, please do not hesitate to contact the undersigned Timothy Bridges ([tim.bridges@gs.com](mailto:tim.bridges@gs.com)).

Regards,

A handwritten signature in blue ink that reads "Timothy J. Bridges". The signature is written in a cursive, flowing style.

Timothy Bridges  
Managing Director, Goldman Sachs & Co. LLC  
Chair, SIFMA Accounting Committee

cc: Israel Snow  
Vice President, Goldman Sachs & Co. LLC  
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