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January 26, 2001

Mr. Halsey Bullen
Senior Project Manager
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, CT 006856-5116

Re: FASB Statement 140

Dear Mr. Bullen:

We are writing to follow up on our November 30 letter regarding the Association's concerns about the method of accounting for "borrow versus pledge" transactions set forth in Paragraph 94 of Statement 140.

The Board's discussion of this issue on December 20, 2000 focused primarily on whether the guidance in the Statement regarding "borrow versus pledge" transactions was clear, and whether a particular question in the draft implementation guide faithfully interpreted this guidance. However, the discussion did not address the heart of our concern, i.e. whether the guidance in Paragraph 94 is appropriate within the context of the Statement's overall principles and structure, and whether it reflects an accurate understanding of the transactions in question.

While it is unnecessary to reiterate the substantive points raised in our earlier comment letter and our past conversations with the staff, we are writing again at this time to express our members' continued high level of concern both about the substantive impact of this guidance and the lack of due process afforded with respect to its formulation. We understand that some of our members have contacted you on an individual basis to express these concerns and to provide some specific information about the projected impact of Paragraph 94 upon their balance sheets, which we understand in some cases to be quite substantial.

Our members have greatly appreciated the opportunity to participate in a very constructive dialogue with the staff and the Board as the Board developed Statement 140. A major focus of this dialogue was on our concerns about the collateral provisions of Statement 125, in particular as they applied to the repurchase and securities lending markets. We believe that the Association's participation through its field test and other activity was instrumental in the resolution of these issues.

Given this history and the Association's acknowledged role in representing these particular markets, the Association was surprised and dismayed to discover that, between the pre-ballot draft issued last May and the final Statement 140 published four months

later, the Board had used the implementation guidance in Statement 140 to change the expected accounting treatment for "borrow versus pledge" transactions. Through a combination of several language changes in the final Statement, including the addition of the last sentence of paragraph 94 and the elimination of erroneous references in the pre-ballot draft to the "short notice" concept, the Board effectively resurrected Statement 125's "gross-up" accounting in the case of these particular transactions. This approach stands in contradiction to the well-understood guidance in Paragraphs 9 and 15 of Statement 140, which had of course been the primary focus of discussion and comment by the Association and other respondents interested in the treatment of collateral.

We believe that language representing such a significant conceptual shift should in fairness have been openly deliberated and exposed for comment¹. For this reason, while we understand that the amendment process is a cumbersome one, we believe that consideration of an amendment would be the most appropriate step for the Board to take at this point. In this regard, we ask the Board to consider whether an amendment may in any event be necessary as a technical matter because the definition of "collateral" in Appendix E to the Statement (which determines the application of Paragraph 15) would clearly cover securities pledged in a borrow-versus-pledge transaction. This creates an internal inconsistency between Paragraphs 94 and 15 in their treatment of such pledged securities.

We strongly urge the Board to undertake a narrowly focused project to deliberate the Paragraph 94 issue and to amend Statement 140 to conform the treatment of securities pledged in a "borrow versus pledge" transaction to the treatment of collateral generally under Paragraph 15(d). If the Board cannot complete this process prior to the pending effective date for the guidance in Paragraph 94, we request that the Board amend Statement 140 to postpone the effective date (as applied to "borrow versus pledge" transactions) for a time period sufficient to allow thorough consideration of these issues.

If you have any questions regarding this letter, please do not hesitate to call either me at (212) 236-6361 or Wendy Fried, Vice President and Associate General Counsel of the Association and Staff Advisor to the Accounting Policy Committee, at (212) 440-9431.

Sincerely,

/s/ Esther Mills

Esther Mills, *Merrill Lynch*
Chair, Accounting Policy Committee of
The Bond Market Association

cc: Edmund L. Jenkins, Chairman, *FASB*
Timothy Lucas, Director of Research & Technical Activities, *FASB*
Wendy Fried, *The Bond Market Association*
James Johnson, *Deloitte & Touche*, *Special Accounting Advisor to The Bond Market*

Association

Funding Legal Advisory Committee of The Bond Market Association

FOOTNOTE

1. We understand that the Board's decision to adopt this approach was in part based upon an effort to determine whether the transfer of securities loaned or the transfer of collateral pledged constituted the "primary" transaction. This thought process was never discussed and is nowhere made explicit in the Statement.