

## **Update on FASB Interpretation No. 48 on Uncertain Tax Positions**

On January 23, 2008, the Financial Accounting Standards Board (FASB) decided to defer the effective date of FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* (FIN 48), for eligible nonpublic enterprises and to require those enterprises to adopt FIN 48 for annual periods beginning after December 15, 2007. As a result, nonpublic banks that meet certain conditions are eligible to defer their implementation of FIN 48 for Call Report purposes until 2008. Thus, eligible nonpublic banks are not required, but are permitted, to prepare their Call Reports for report dates in 2007 in accordance with FIN 48.

All nonpublic enterprises are eligible for this deferral provided the nonpublic enterprise (a) has not issued a full set of annual financial statements incorporating the recognition, measurement, and disclosure requirements of FIN 48 and (b) is not a subsidiary of a public enterprise. A nonpublic enterprise that meets these conditions is eligible for the deferral even if it has issued interim or quarterly financial information in 2007 that reflected the adoption of FIN 48.

Beginning with the December 2006 Supplemental Instructions to the Call Report, the banking agencies advised banks each quarter that they were required to adopt FIN 48 for Call Report purposes in accordance with its original effective date, i.e., for fiscal years beginning after December 15, 2006. Based on the deferral language contained in a proposed Staff Position on FIN 48 the FASB issued for comment in December 2007 and because banks were expected to prepare their quarterly Call Reports in accordance with FIN 48 during 2007, the Supplemental Instructions for December 2007 stated that banks were not eligible for the proposed deferral of the effective date of FIN 48.

The FASB's deferral decision revises this previous Call Report guidance as it relates to eligible nonpublic banks. Accordingly, for Call Report purposes, eligible nonpublic banks must adopt FIN 48 for annual periods beginning after December 15, 2007, based on their respective fiscal years. For example, an eligible nonpublic bank with a calendar year fiscal year must adopt FIN 48 as of January 1, 2008, but is not required to reflect the effect of its adoption of FIN 48 for Call Report purposes until it prepares its Call Report for the December 31, 2008, report date. An eligible nonpublic bank that has already applied the recognition and measurement provisions of FIN 48 in its Call Reports for 2007 report dates can either: (a) choose not to adopt the effective date deferral and continue to apply FIN 48 in its Call Reports going forward; or (b) choose to adopt the effective date deferral. If the bank chooses to adopt the deferral, it should submit its December 2007 Call Report without reflecting the application of FIN 48. As noted above, a nonpublic bank that is a subsidiary of a public company does not meet the eligibility conditions for the deferral of the effective date of FIN 48 and must prepare its December 2007 Call Report in accordance with FIN 48.