



Board Meeting Handout

EFFECTIVE DATE, TRANSITION, AND DISCLOSURES FOR THE AMENDMENTS TO STATEMENT 140 AND INTERPRETATION 46(R)

July 30, 2008

PURPOSE

The purpose of this meeting is to ask the Board if it wants to reconsider its tentative decision reached at the June 11, 2008 Board meeting regarding the effective date and transition for the proposed amendments to FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*, and FASB Interpretation No. 46 (revised December 2003), *Consolidation of Variable Interest Entities*. Additionally, the Board will specifically discuss the effective date of the disclosures that were tentatively approved at the June 4, 2008 Board meeting and whether any changes need to be made to those disclosures if the Board decides that the effective date of those disclosures should be different than other proposed amendments.

ISSUE 1: EFFECTIVE DATE AND TRANSITION

At the June 11, 2008 Board Meeting, the Board tentatively decided that the effective date and transition for the proposed amendments to Statement 140 and Interpretation 46(R) shall be as follows (excerpt from the June 19, 2008 Action Alert – Board Actions):

The Board decided that the amendments to Statement 140 should be applied in fiscal years beginning after November 15, 2008 (effective date) on a prospective basis (for example, a calendar year-end entity would apply the amendments to Statement 140 for new transactions completed after January 1, 2009). However, qualifying special-purpose entities (SPEs) that existed prior to the effective date would be subject to the consolidation guidance in fiscal years beginning after November 15, 2009.

The Board decided that the amendments to Interpretation 46(R) should be applied in fiscal years beginning after November 15, 2008 (effective date) on a limited retrospective basis, except for qualifying SPEs that existed as of the effective date. The amendments to the Interpretation would be applied to qualifying SPEs that existed prior to the effective date in fiscal years beginning after November 15, 2009. For example, a calendar year-end entity would apply the Interpretation 46(R) amendments to qualifying SPEs that existed as of December 31, 2008, in the entity's 2010 first-quarter financial statements or its December 31, 2010, financial statements if quarterly financial statements are not required. The entity would apply the Interpretation 46(R) amendments to all other variable interest entities in its 2009 financial statements.

Transition disclosures would be provided for existing qualifying SPEs during the one-year deferral period.

In the event that the final amendments to the Interpretation are not effective for fiscal years beginning after November 15, 2008, the Board asked the staff to prepare separate disclosures for inclusion in the proposed Interpretation 46(R) Exposure Draft, based on the disclosures approved at the June 4, 2008 Board meeting.

Since the June 11, 2008 Board meeting, various constituents have expressed concern with the tentative decisions reached regarding the effective date and transition for the proposed amendments to Statement 140 and Interpretation 46(R). Should the Board want to reconsider its tentative decision, the staff has proposed the following two alternatives for Board consideration.

1. **Alternative A**—Different effective dates based on when the transfer was completed or when the variable interest was created.
 - a. The effective date would be fiscal years beginning after November 15, 2008, for (1) transfers of financial assets occurring after fiscal years beginning after November 15, 2008, and (2) variable interest entities created in fiscal years beginning after November 15, 2008.
 - b. The effective date would be fiscal years beginning after November 15, 2009, for variable interest entities including qualifying SPEs created in fiscal years beginning before November 15, 2008, that meet and continue to meet the definition of a qualifying SPE under previous accounting standards (existing qualifying SPEs).

The amendments to Statement 140 would be applied prospectively, except that all existing qualifying SPEs would be evaluated for consolidation on initial application of the amendments in fiscal years beginning after November 15, 2009. The amendments to Interpretation 46(R) would require an enterprise to apply those amendments to all entities to which Interpretation 46(R) was previously applied in fiscal years beginning after November 15, 2008.

Transitional disclosures would be required for all variable interest entities for which it is reasonably possible that an enterprise will initially consolidate, deconsolidate, or be required to provide disclosure information about a variable interest entity upon adoption of Interpretation 46(R). The transitional disclosures would require, among other things, information about (a) the nature, purpose, size, and activities of the variable interest entity and (b) the enterprise's maximum exposure to loss as a result of its involvement with the variable interest entity

2. **Alternative B**—Single effective date for the amendments to Statement 140 and Interpretation 46(R) for fiscal years beginning after November 15, 2009 (January 1, 2010, for a calendar year-end entity). The amendments to Statement 140 would be applied prospectively, except that all existing qualifying SPEs must be evaluated for consolidation on the effective date. The amendments to Interpretation 46(R) would require an enterprise to apply those amendments to all entities to which Interpretation 46(R) was previously applied on the effective date.

Additionally, the staff proposes that most of the disclosure enhancements proposed for Interpretation 46(R) and Statement 140 should be effective for fiscal years beginning after November 15, 2008, for a public enterprise¹ with earlier application encouraged.

¹ The definition of *public* and *nonpublic entities* (enterprises) is consistent with the definitions of *publicly traded entity* and *nonpublic entity* used in paragraph E1 of FASB Statement No. 132 (revised 2003), *Employers' Disclosures about Pensions and Other Postretirement Benefits* (the staff noted more recent definitions; however, the more recent definitions do not include debt securities). The definitions provided in Statement 132(R) are as follows:

A nonpublic enterprise would apply the disclosures on adoption of the proposed Statements to amend Statement 140 and Interpretation 46(R).

The staff recommends Alternative B.

Q1. Does the Board want to change its tentative decision reached at the June 11, 2008 Board meeting regarding the transition and effective date to a single effective date for fiscal years beginning after November 15, 2009 (Alternative B)?

At the June 11, 2008 Board meeting, the Board also tentatively decided that amendments to Interpretation 46(R) should be applied on a limited retrospective basis. The staff wants to clarify that the initial consolidation of a variable interest entity as a result of the initial application of the amendments to Interpretation 46(R) would require the enterprise to initially measure all assets and liabilities at fair value, with any difference being recorded as a cumulative effect adjustment in retained earnings that would be recorded as of the beginning of the first fiscal year in which the amendments are initially applied.

Q2. Does the Board agree with the staff's clarification?

ISSUE 2: EFFECTIVE DATE OF DISCLOSURES

Financial statement users have told the FASB that the enhanced disclosures are an integral part of the project to amend Statement 140 and Interpretation 46(R) and should be effective as soon as possible. The staff recommends that disclosures similar to those approved at the June 4, 2008 Board meeting² be effective for a public entity in fiscal years beginning after November 15, 2008, and interim periods within those fiscal years, with earlier application encouraged.

In addition to the disclosures required in Statement 140 for a transferor and in Interpretation 46(R) for a primary beneficiary or significant variable interest holder, the staff considered whether a non-transferor enterprise that holds a variable interest in a qualifying SPE would apply certain of the proposed disclosures in Interpretation 46(R) until the amendments to Statement 140 and Interpretation 46(R) are effective. Currently, a non-transferor enterprise is not subject to the disclosure requirements in paragraphs 17(h) and 17(i) of Statement 140 or the disclosures required by Interpretation 46(R). However, a non-transferor enterprise would be subject to the disclosure requirements in Interpretation 46(R) when the scope exception in paragraph 4(d) of that Interpretation is deleted, if the enterprise concludes it is (1) the primary beneficiary, (2) a significant variable interest holder, or (3) the sponsor of a variable interest entity. As a result, the

Nonpublic entity—Any entity **other than** one (a) whose debt or equity securities trade in a public market either on a stock exchange (domestic or foreign) or in the over-the-counter market, including securities quoted only locally or regionally, (b) that is a conduit bond obligor for conduit debt securities that are traded in a public market (a domestic or foreign stock exchange or an over-the-counter market, including local or regional markets), (c) that makes a filing with a regulatory agency in preparation for the sale of any class of debt or equity securities in a public market, or (d) that is controlled by an entity covered by (a), (b), or (c). [Emphasis added.]

Publicly traded entity—Any entity that does not meet the definition of a *nonpublic entity*.

² The June 4, 2008 Board meeting minutes, available at http://www.fasb.org/board_meeting_minutes/6-4-08_disclosure_minutes_final.pdf, include a draft of the proposed disclosures that were tentatively approved by the Board.

staff recommends that a non-transferor enterprise that holds a significant variable interest in a qualifying SPE be required to disclose the following until the proposed amendments to Statement 140 and Interpretation 46(R) become effective:

In addition to the disclosures required by other standards, a non-transferor enterprise that holds a significant variable interest in a qualifying SPE would disclose the following:

1. The nature, purpose, and activities of the variable interest entity, including how the entity is financed
2. The carrying amount and classification of the enterprise's variable interest(s) in the statement of financial position related to the enterprise's involvement with the variable interest entity
3. Terms of arrangements that could require the enterprise to provide financial support (for example, liquidity commitments and obligations to purchase assets) to the variable interest entity, including events or circumstances that could expose the enterprise to a loss
4. Whether the enterprise has provided financial or other support to the variable interest entity that it was not contractually required to provide during the periods presented, including:
 - a. The type and amount of financial support, including situations where the enterprise assisted the variable interest entity in obtaining another type of support
 - b. The primary reasons for providing the non-contractual support.

The staff recommends that the proposed amendments to the Statement 140 and Interpretation 46(R) disclosures and the staff's proposed disclosures for a non-transferor enterprise that holds a significant variable interest in a qualifying SPE should be included in a separate FASB Staff Position (FSP) (with a 30-day comment period) that is only applicable to public companies. The purpose of a disclosure-only FSP is to expeditiously meet financial statement user needs of greater transparency for off-balance sheet transactions and to allow preparers time to implement the disclosures.

Q3. Does the Board agree with the staff's recommendation to require disclosures similar to those approved at the June 4, 2008 Board meeting for fiscal years beginning after November 15, 2008, and interim periods within those fiscal years, with earlier application encouraged?

Q4. Does the Board agree with the staff's recommendation to also require disclosures for a non-transferor enterprise that holds a significant variable interest in a qualifying SPE?

Q5. Does the Board agree with the staff's recommendation to expose the disclosures in a single FSP with a 30-day comment period that will only apply to public companies?

Q6. Can the staff proceed with drafting the proposed FSP that details the proposed disclosures for vote by written ballot?

Q7. Would the Board like to discuss any of the issues raised on the unsolicited comment letters received by the Board?