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Mr. Lawrence W. Smith
Director—Technical Application and Imp
Financial Accounting Standards Board
401 Merritt 7
Norwalk, CT 06856-5116

Letter of Comment No: *20*
File Reference: FSPFIN46RC

Re: Proposed FSP FIN 46(R)-c, "Determining the Variability to Be Considered In Applying FASB Interpretation No. 46(R)" ["Proposed FSP"]

Dear Mr. Smith:

Canadian Imperial Bank of Commerce ("CIBC") is writing to comment on the Proposed FSP exposure draft referenced above. CIBC appreciates the opportunity to comment on the above referenced exposure draft. CIBC recognizes FASB's continued efforts to provide clarification and guidance to consolidation of variable interest entities.

CIBC is a leading North American financial institution, interlisted on the Toronto Stock Exchange and the New York Stock Exchange. Consequently, CIBC is required to comply with both Canadian and the U.S. generally accepted accounting principles. Both Canadian and U.S. GAAP are harmonized with respect to consolidation of variable interest entities as the Canadian Accounting Standards Board (AcSB) issued Accounting Guideline (AcG) – 15 pursuant to the finalization of FIN 46. We believe AcSB will make appropriate amendments to AcG-15 pursuant to finalization of the Proposed FSP. Consequently, we wish to bring to the Board's attention certain areas in the Proposed FSP that need further clarification.

CIBC is fully supportive of the comments submitted by the Joint Industry Working Group composed of representatives of the respective accounting policy committees of ASF, CMSA, ISDA, SIA and TBMA in their comment letter on the Proposed FSP.

Fees paid to decision makers

Our primary concern relates to the consideration of fees paid to decision makers. We seek the FASB's clarification to determine whether the Proposed FSP should be applied to determine whether fees paid to a decision maker is a variable interest.

Paragraph 2 of the Proposed FSP states " Thus, determining the variability to be considered is necessary to apply the provisions of Interpretation 46(R)." Further, paragraph 7 of the Proposed FSP states "The variability to be considered when applying Interpretation 46(R) shall be based on the design of the entity. After determining the variability to consider, the reporting enterprise can determine which interests are designed to absorb that variability (that is, which interests are variable interests)."

Paragraphs B18-B21 of Interpretation 46(R) provides guidance on when fees paid to a decision maker is not considered a variable interest in the entity.

In this context, we suggest adding an administrator in Example 1(b) to the Proposed FSP to clarify how the fees paid to the administrator will be treated. The clarification on the interaction of the "by design" concept with paragraph B18-B21 of Interpretation 46(R) would ensure consistent treatment of decision maker fees amongst the constituents.

Interaction with paragraph 12 of Interpretation 46(R)

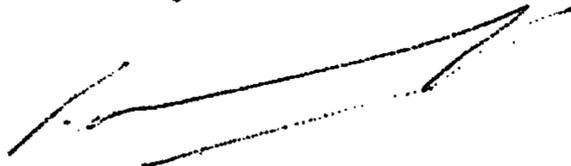
1. Another area that requires some clarification relates to the interaction of the "By-Design" approach with the provisions of Interpretation 46(R). Specifically, paragraph 12 of Interpretation 46(R) contains provisions relating to when a variable interest in specified assets shall be deemed to be a variable interest in the entity.

In considering whether a Seller to a conduit has a variable interest, should we apply the Proposed FSP before applying paragraph 12 of Interpretation 46(R)? For example, let us consider the instance where a number of Sellers bear the first loss in respect of assets sold by them to a VIE. The design of the entity would suggest that these parties are the "economic equity" holders but would be excluded under paragraph 12 of Interpretation 46(R). Are the exclusions in paragraph 12 still relevant in light of the clarifications provided by the Proposed FSP?

2. We also request the FASB to clarify the application of the provision in paragraph 12 which states that a holder of variable interests ("the holder") in a specified asset (with fair value less than half of the total fair value of the entity's assets) is deemed not to have a variable interest so long as the holder's other variable interest in the entity as a whole is insignificant. We are concerned that unintended consequences may arise where all "the holders" of an entity may conclude that they have no variable interests and another entity may have an insignificant variable interest in the entity as a whole. This remaining 'insignificant' variable interest now becomes the *only* identified variable interest and therefore, by default, the entity holding this interest would be deemed to be the primary beneficiary of the VIE. We believe that if paragraph 12 is left as is, it may drive results that are contrary to the intent of the Proposed FSP.

CIBC appreciates the opportunity to provide the foregoing comments. Should you desire any clarification or have any questions concerning the matters addressed in this letter, please do not hesitate to contact us.

Yours truly,



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