

January 20, 2005

Letter of Comment No: 5
File Reference: FSP46RB

Mr. Lawrence Smith
Director of Technical Application and Implementation Activities
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

RE: Proposed FSP No. FIN 46(R)-b, *Implicit Variable Interests Resulting from Related Party Relationships under FASB Interpretation No. 46 (revised December 2003)*, Consolidation of Variable Interest Entities

Dear Mr. Smith:

PricewaterhouseCoopers LLP appreciates the opportunity to respond to the proposed Financial Accounting Standards Board (FASB) Staff Position enumerated above ("the FSP"). We appreciate the Board's willingness to address implementation concerns on a timely basis, and believe that the issuance of the FSP will assist in the application of FASB Interpretation No. 46 (revised December 2003), *Consolidation of Variable Interest Entities* ("FIN 46R" or the "Interpretation").

We agree with the FASB staff's broad principle that situations may exist whereby consideration should be given to whether an implicit variable interest in a variable interest entity (VIE) exists. However, we believe that consideration of implicit variable interests should be limited to the determination of which party in a related party group is most closely associated with the VIE (i.e., which party in a related party group should consolidate the VIE). Given the high degree of judgment in determining the amount of expected losses and/or residual returns allocated to implicit variable interests, we believe that the FASB staff should not require implicit variable interests to be considered when a reporting enterprise evaluates the variable interests that it and its related parties have to determine whether the related party group is the primary beneficiary. Rather, we believe that a reporting enterprise should consider only explicit interests when evaluating whether it or a related party group is the primary beneficiary of a VIE. Once that determination is made based on a consideration of

explicit interests and the related party group is determined to be the primary beneficiary, the determination of which party in the related party group should consolidate the VIE should include consideration of implicit variable interests.

In addition, we have identified the following areas that we believe could be further clarified and/or expanded upon in the final FSP to provide for a more consistent application:

- As the FSP is drafted, a reporting enterprise would only be required to consider whether it has an implicit variable interest in an entity if the entity is a VIE. That is, such an implicit variable interest would not *create* a VIE. We agree with this concept and recommend that the FASB clarify this point in the final FSP.
- One of the conditions in paragraph 5a of the draft FSP necessary for a reporting enterprise to consider whether it has an implicit variable interest is that the reporting enterprise has no explicit variable interest. We believe that circumstances may exist when a reporting entity has both an explicit variable interest in a VIE and an implicit variable interest in a VIE. Therefore, we believe that a reporting enterprise that has an explicit variable interest in a VIE should also be required to consider whether it has an implicit variable interest in the same VIE. To clarify this point, we recommend that the FASB staff delete the sentence in paragraph 5a stating: “Therefore, the reporting enterprise has no explicit variable interest in the entity”.
- Paragraph 5b of the FSP refers to “potential variable interest.” We believe that the FASB staff was referring to other instances of implicit variable interests in a VIE. We recommend that this be clarified in the final FSP.
- Footnote 4 of the FSP provides a principal-agency relationship as an example of situations that could be within the scope of the FSP. We do not believe that the intent of the FASB staff was to include the broad concept of principal-agency relationships within the definition of related parties for the purpose of this FSP. Rather, we believe the FASB staff intended this FSP to include only de facto agency relationships as described in paragraph 16 of FIN 46R. We recommend the footnote be revised to reflect this.

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If you have any questions regarding our comments, please contact Doug Tanner at (973) 236-7282 or Tom Barbieri at (973) 236-7227.

Sincerely,

PricewaterhouseCoopers LLP