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Financial Accounting Standards Board

Japanese Bankers Association

Comments on the FASB's Exposure Draft of the Proposed Interpretation of ARB No. 51 Regarding the Consolidation of Certain Special-Purpose Entities (File Reference: 1082-200)

The Japanese Bankers Association (JBA) is an industry group whose members include 152 Japanese banks and 34 foreign banks with operations in Japan. JBA is grateful to the Financial Accounting Standards Board (FASB) to comment on the Exposure Draft of the proposed interpretation of ARB No. 51 regarding the consolidation of certain special-purpose entities on June 28, 2002. The JBA would like to express its concerns regarding the FASB's Exposure Draft based on the reasons given below.

1. Regarding the consolidation of certain special-purpose entities, the JBA believes that convergence should be sought with the position of the International Accounting Standards Board (IASB), which is also deliberating on this issue. At present, consolidation based on a variable interest standard would be very difficult to implement on a practical level. Thus, the JBA believes that in order to determine the scope of consolidation principle of control, which is the standard used by both the IASB and in Japan, should be adopted.

By current U.S. standards, the scope of consolidation is determined solely by voting interests. However, based on the experience of other countries, the JBA holds that the principle of control—control of the subsidiary's governing body, existence of an agreement granting power to govern financial or operating policies of a subsidiary, etc.—is effective in preventing companies from avoiding consolidation.

2. Although the scope of application of the proposed variable interest concept is unclear, it is suggested that it would apply even to detailed contracts. It would be impossible therefore for an enterprise providing financial support through a variable interest to determine whether or not its own variable interest is significant and whether or not it is significantly more than that of any other individual party. In other words, an enterprise would not be able to determine whether or not it is the primary beneficiary, and so such concept would not seem to work on a practical level. There may also be the need to create additional detailed guidelines and questions & answers for determining whether a business relationship is one that constitutes a variable interest, and it is therefore possible that relationships will arise that allow consolidation to be avoided. IASB Chairman Sir David Tweedie expressed his concerns on these points at a U.S. Senate hearing in February of this year.

As regards qualifying SPEs involved in transfers of financial assets, the nature of financial support an enterprise provides to an SPE holding financial assets is different from support the enterprise provides to an SPE not holding financial assets. And considering that strict requirements defining qualifying SPEs have already been set forth in section 35 of SFAS 140, the JBA believes that further augmenting regulations will make it difficult for SPEs to function.

3. Evaluating dominant risk requires that price risk and credit risk also be evaluated

separately and the difficulty of excluding arbitrariness in making these evaluations argues against using dominant risk as a standard.

4. In the event that this proposed interpretation is implemented, the JBA believes that it will be necessary to more clearly define SPEs to which this interpretation applies and to institute a grandfather rule for existing SPE relationships.

(end)