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Ms. Suzanne Bielstein Director of Major Projects and Technical Activities Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, Connecticut 06856-5116

Re: File Reference No. 1082-200

Exposure Draft on Consolidation of Certain Special-Purpose Entities, a

Proposed Interpretation of ARB No. 51

Dear Ms. Bielstein:

Fidelity Management & Research Company ("FMR") thanks the Financial Accounting Standards Board for this opportunity to comment upon the above-referenced Exposure Draft. FMR and its affiliates ("The Fixed Income Division of Fidelity Investments") currently have approximately \$350 billion of fixed income assets under management, with substantial holdings in asset-backed securities, including asset-backed commercial paper ("ABCP"). In its taxable general-purpose money market funds (currently \$132 billion in assets), the exposure to ABCP has, over the last several years, ranged from 3% to 8% of all ABCP outstanding in the marketplace. As one of the leading managers of nutual funds and other fiduciary accounts, FMR is a major "consumer" of financial statement information and has a vested interest in the quality and transparency of that information.

We are concerned that adoption of the various provisions of the Exposure Draft could inadvertently complicate the financial statements of operating entities that are subject to it, thereby reducing the level of comparability across such operating entities. Additionally, the ABCP market has provided a variety of very highly rated, high-quality securities that have met the investment needs of our money market funds. We are concerned that the rules set forth in the Exposure Draft may significantly decrease the supply of ABCP, if consolidation ultimately reduces the economic viability of ABCP programs sponsored by domestic commercial banks. We therefore hope that the FASB would carefully assess the potentially harmful market impacts of the rules it ultimately adopts, while pursuing the overall objective of improved disclosure by the operating entities that sponsor ABCP programs.

While we are major users of financial statement information, we are not experts in the technical aspects of accounting principles. Rather than suggesting specific modifications to the Exposure Draft, we will confine our remarks to more general concerns about the impact on investment managers who rely upon the clarity, uniformity, and completeness of financial statements when analyzing operating entities (including the sponsors of ABCP programs) and the potential negative market impact of the Exposure Draft as currently written. We hope that our views prove useful in assessing the specific suggestions of other commentators.

We understand and support the Exposure Draft's overall goal of improved disclosure. In fact, for over ten years, FMR has actively advocated that the Securities Exchange Commission (the "Commission") adopt a comprehensive disclosure regime for all publicly issued asset-backed securities, and has worked with others in the industry to provide the Commission staff with specific suggestions as to how to construct such a regime. However, our interest in improved disclosure notwithstanding, we trust that the FASB would deliberate carefully before finalizing the various provisions of the Exposure Draft. Of special note, we urge the FASB to consider the Congressional and Commission initiatives pertaining to disclosure, such that the FASB's final guidance complements these initiatives, and does not conflict with them. For example, the Commission's proposed amendments to Form 8-K may address many of the FASB's concerns regarding asset-backed securities related disclosure.

Impact on Financial Statements of Operating Entities Sponsoring ABCP Programs. As we understand the provisions of the Exposure Draft, an operating entity that has a controlling financial interest in a special-purpose entity ("SPE") would be required to consolidate the assets, liabilities, and results of operation of the SPE on the financial statements of the operating entity. Through an elaborate series of complicated tests, the Exposure Draft explains how to identify an SPE which requires consolidation, but which is not subject to the traditional voting control test. In summary, an operating entity would be required to consolidate an SPE if it provides significant financial support to the SPE, which may arise from financial instruments, service contracts, nonvoting ownership interests, or other arrangements. If the operating entity holds (1) a majority of the variable interests in the SPE, or (2) variable interests that are (a) a significant portion of the total variable interests, and (b) significantly more than any other party's variable interests, that operating entity would be deemed a primary beneficiary of the SPE, triggering mandatory consolidation. The Exposure Draft would also require the primary beneficiary to disclose additional information about the assets, liabilities, and activities of the consolidated SPE. Other operating entities that provide significant administrative services to an SPE, but which are not the primary beneficiaries of the SPE, would have lower disclosure requirements.

While the deliberations surrounding the Exposure Draft highlight the existing problems pertaining to SPE disclosure, we believe that, if adopted in its current form, the Exposure Draft may have precisely the opposite of its intended effect – that is, it may result in less, rather than more, transparency. Specifically, our paramount concern regarding SPE

disclosure is that the level of comparability across the various operating entities that sponsor ABCP programs may not be maintained. Without these meaningful comparisons, one's ability to assess creditworthiness could be compromised. In its current form, the Exposure Draft would make such levels of comparability more difficult to attain than is necessary. As noted in Paragraph 24 of the Exposure Draft:

"24. In addition to any disclosures that may be required by other standards, a primary beneficiary of an SPE shall disclose, either in the notes to the financial statements or on the face of the statement of financial position, the carrying amount and classification of assets of a consolidated SPE that are collateral for the SPE's obligations. If the creditors (or beneficial interest holders) of a consolidated SPE have no recourse to the general credit of the primary beneficiary, that lack of recourse shall be disclosed either in the notes to the financial statements or on the face of the statement of financial position."

The discretion afforded the sponsors of ABCP programs to disclose certain types of information "either in the notes to the financial statements or on the face of the statement of financial position" may lead to disparate disclosure practices, unnecessarily complicating the analytical process. Accordingly, we urge the FASB to provide additional guidance on this matter. One alternative that may be suitable is the universal adoption of "Matched Presentation", as promulgated in Appendix C of the American Securitization Forum's comment letter to the FASB regarding the Exposure Draft. Beyond promoting comparability, an additional benefit of the "Matched Presentation" approach (as mentioned in the American Securitization Forum's comment letter) is that its adoption should not affect the regulatory capital requirements of the operating entities sponsoring ABCP conduits. We note in the following section of this letter that we have significant concerns regarding the potentially adverse impact of the Exposure Draft on the ABCP marketplace. To the extent that adoption of the "Matched Presentation" approach maintains current regulatory capital requirements, our concerns regarding the adverse market implications of the Exposure Draft would be largely negated.

As noted above, our paramount concern regarding SPE disclosure is that the level of comparability across the various operating entities that sponsor ABCP programs may not be maintained. We urge the FASB to provide additional guidance regarding Paragraph 24 of the Exposure Draft, with the objective of promoting ready comparability.

⁵ Under Rule 2a-7 of the Investment Company Act of 1940 (the "1940 Act"), the managers of money market mutual funds are precluded from relying upon the credit ratings assigned by the credit rating agencies when reviewing a security's suitability for investment. Rather, a money market fund manager must make an independent determination of "minimal credit risk" prior to approving a security for nurchase.

² FMR is not a member of the American Securitization Forum. The comment letter (dated August 22, 2002) is available at www.americansecuritization.com.

Impact on the ABCP Marketplace. Money market mutual funds are designed to maintain a constant \$1.00 net asset value per share. As manager of such funds, the Fixed Income Division of Fidelity Investments is obligated to follow the asset diversification, credit quality, and maturity restrictions of Rule 2a-7 of the 1940 Act. Additionally, under the 1940 Act, money market mutual funds must observe certain industry concentration restrictions that are designed to further reduce portfolio risk. Assembling and maintaining a diversified portfolio of eligible securities that meet all quantitative regulatory requirements and which represent "minimal credit risk" can be very challenging, particularly in today's uncertain economic climate. If an asset class having appropriately high credit quality and short duration is withdrawn from the money markets or is significantly reduced in size, it becomes more difficult for money market funds to stay fully invested and prudently diversified. Additionally, if one asset class becomes relatively less available, fund managers must invest more heavily in other asset classes, and may be compelled to make sub-optimal credit choices because of the reduced supply of eligible investments. Moreover, because ABCP is an important component of the universe of eligible money market fund investments, it influences the forces of supply and demand that determine the yields of other eligible securities. To the extent that adoption of the Exposure Draft provisions reduces the supply of ABCP, we would expect that the investment returns of money market funds would be adversely affected.

Accordingly, we are concerned about the potential effects of the Exposure Draft on the future supply of ABCP. It appears as if a significant percentage of the current ABCP programs may run afoul of the "two-out-of-three" test³ contained in Paragraph 23 of the Exposure Draft, and would therefore require their sponsors to consolidate those programs. Most significantly, if consolidation leads to increased regulatory capital requirements for the domestic commercial banks that sponsor ABCP programs, the economic viability of those programs may decline. If the economic viability of an ABCP program is diminished, its sponsor may choose to eliminate it, with the assets formerly funded by the program migrating to other, more economically viable alternatives. Not all such alternatives may be eligible for purchase by money market funds.

Although we cannot predict with certainty how the ABCP market would adapt to the implementation of the Exposure Draft provisions in their current form, we have read and heard about the potential adverse effects on the marketplace and on the sponsors of ABCP programs. As noted above, consolidation may reduce the economic viability of ABCP programs sponsored by domestic commercial banks, if consolidation leads to increased regulatory capital requirements. Additionally, some of the operating entities that sell receivables to the ABCP conduits (and which are not affiliated with the sponsors of the conduits) may find their consolidation of the SPEs used in these individual

An entity that is involved with an SPE will be considered to have provided "significant financial support" through a variable interest (and therefore be considered a "primary beneficiary") if at least two of the following three conditions are met: (1) the entity manages the SPE's assets on a discretionary basis; (2) the entity provides a guarantee, back-up lending support, or some other form of liquidity or credit support to the SPE; or (3) the entity receives a fee from the SPE that is not market based.

transactions to be problematic. Either of these effects may ultimately reduce the supply of ABCP available for purchase by money market funds.⁴

Given (1) the importance of ABCP to money market funds, and (2) the potential reduction in supply if consolidation leads to increased regulatory capital requirements for the domestic commercial banks that sponsor ABCP programs, we urge that, prior to formulating its final guidelines, the FASB give due consideration to the potential problems for ABCP supply presented by the Exposure Draft. As noted on page 3 of this letter, one benefit of the "Matched Presentation" approach promulgated in the American Securitization Forum's comment letter is that its adoption should not affect the regulatory capital requirements of the operating entities sponsoring ABCP conduits. Accordingly, universal adoption of the "Matched Presentation" approach may be a workable solution to this potential problem.

Recent Developments Affecting SPE-related Disclosure. Congress and the Commission have taken some initial steps toward improving operating entity disclosure. The rulemaking process envisioned by the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley") has not yet begun. However, Sarbanes-Oxley mandates Commission rulemaking with respect to all material off-balance sheet transactions, among many other major modifications to current operating entity disclosure. Independently, on June 17, 2002, the Commission proposed a series of amendments to the rules and forms governing periodic reporting by operating entities that are required to report under the federal securities laws. As proposed, Form 8-K would be amended to add cleven new events that would compel a filing with the Commission. Included in the events are the requirements that an operating entity disclose (1) the creation of a direct or indirect contingent financial obligation that is material to the operating entity, and (2) the occurrence of events triggering a direct or contingent financial obligation that is material to the operating entity, including any default or acceleration of an obligation. We believe that these amendments would directly address the concerns about transparency that underpin the Exposure Draft, Given that the fabric of the disclosure regimes applicable to off-balance sheet transactions and to contingent liabilities is undergoing rapid and dramatic change, we would be concerned if the FASB were to take action on the Exposure Draft before all of these related regulatory initiatives are finalized. Accordingly, we urge the FASB to carefully consider

⁴ The decline in outstanding ABCP, from \$745.3 billion at year-end 2001 to \$760.9 billion on July 31, 2002 (-6.0%), may be partially attributable to the uncertainty in the marketplace created by the consolidation project. A review of Federal Reserve Board data beginning in 1993 indicates that in only one other year (1993; -3.1%) did outstanding ABCP decline during the January – July period. Conceivably, some of the reduction in outstanding ABCP could reflect decelerating economic activity, or the preference that some asset securitizers may have for obtaining long-term funding in the current low-interest rate environment. Even so, anecdotal remarks support the contention that uncertainty regarding the consolidation project has weighed upon the ABCP market, affecting the behavior of both program sponsors and the operating entities that self-receivables to the programs.

Additionally, we are concerned that if domestic commercial banks withdraw from the market as ABCP sponsors, other ABCP sponsors, other ABCP sponsors, that are not subject to FAS 94 or which do not care about its application may seek to take the place of the domestic commercial banks. We would anticipate that more foreign banks and more non-bank "boutques" would attempt to expand their activities as ABCP sponsors, which may not be a positive development for highly risk-averse investors, such as money market funds.

the impact of impending Commission action affecting SPEs and off-balance sheet financing prior to finalizing the various provisions of the Exposure Draft.

Fidelity's Continuing Commitment to Improving Asset-backed Securities Disclosure. For over ten years, the Fixed Income Division of Fidelity Investments has been a vocal advocate for improved disclosure for asset-backed securities. In response to the proposal of Rule 3a-7 by the Commission in June 1992, FMR, the Investment Company Institute and others wrote comment letters objecting to the inadequate controls on asset-backed securities contained in the proposed rule. In July 1996, the Investment Company Institute and FMR met with the staff of the Commission to express our growing concern about the lack of a primary and secondary disclosure regime for asset-backed securities. In September 1996, a Task Force on Disclosures for Asset-Backed Securities formed by the Association for Investment Management and Research (the "AIMR Task Force") furnished the staff of the Division of Corporation Finance with an extensive set of detailed recommendations for both primary and secondary market disclosure including financial disclosure for asset-backed SPEs. FMR played an active role in developing and presenting the Investment Company Institute and AIMR position statements.

On October 29, 1996, in response to a Commission initiative, the Investment Company Institute provided the Division of Corporation Finance with detailed recommendations for primary and secondary market disclosure related to asset-backed securities. FMR played an active role in preparing the Investment Company Institute's submission and met with the Commission staff on several occasions. In December 1997, the Director of the Division of Corporation Finance announced that the Commission was creating a special office to review filings and write rules for the asset-backed securities market. The

⁵ In May 1992, the staff of the Division of Investment Management released the results of its two-year iong study of the 1940 Act, Protecting Investors: A Half Century of Investment Company Regulation (the "1940 Act Study") which laid the foundation for adoption of Rule 3a-7 under the 1940 Act and the amendment of the shelf registration rules to permit asset-backed securities to come to market without the customary protections of the Securities Act of 1933. The staff met frequently with representatives of the investment company community, including PMR's investment professionals, to gather informat input concerning various topics that would ultimately be included in the final 1940 Act Study. At that time, PMR highlighted some of the difficulties that it had encountered with asset-backed securities disclosure. The shelf registration amendments were adopted in October 1992, and Rule 3a-7 was adopted in November 1992. When the Commission adopted Rule 3a-7, it also called for a study of the securitization marketplace within one year. No study was ever conducted.

The Investment Company Institute is the national association of the investment company industry. Its membership currently includes 8,900 open-end investment companies ("mutual funds") and 504 closed-end funds. Its mutual fund members currently have assets of about \$6.615 trillion, accounting for approximately 95 percent of total industry assets, and over 88.6 million individual shareholders.

² AIMR is a global not-for-profit membership organization comprised of investment analysts, portfolio managers, and other investment decision-makers employed by investment management firms, banks, books dealers, investment company complexes, and insurance companies. AIMR's mission is to serve investors through its membership by providing global leadership in education on investment knowledge, sostaining high standards of professional conduct, and administering the Chartered Financial Analyst designation program. The AIMR Task Force was chaired by Alan Bembenek, a senior analyst with the Fixed Income Division of Fidelity Investments, and included AIMR members employed by Bank of Boston, Bankers Trust Company. Allstate Life Insurance Company, and Mutual of Omaha Companies. As with all AIMR position papers, the views expressed were those of the AIMR Task Force members and not of their employers.

new office became operational in March 1998. FMR and other industry participants met informally with representatives of the staff assigned to the new unit in 1998 and 1999. No formal rulemaking or other action concerning asset-backed securities disclosure was ever instituted. We would hope that recent interest in securitization disclosure would result in a renewed focus on the need to develop a primary and secondary market disclosure regime for asset-backed securities

Conclusion. While FMR supports the Exposure Draft's overall goals of improved disclosure, we are concerned that its adoption could inadvertently complicate the financial statements of operating entities, thereby reducing the level of comparability. Additionally, the rules set forth in the Exposure Draft may significantly decrease the supply of ABCP, by reducing the economic viability of ABCP programs sponsored by domestic commercial banks. Finally, we are concerned that, unless there is due consideration given to the regulatory initiatives mandated by Sarbanes-Oxley, future accounting standards could be inconsistent with disclosure rules that the Commission will adopt during the next several months. As such, we urge the FASB to carefully consider ways of avoiding these potential adverse results. Specifically, it may be advisable to defer finalization of the Exposure Draft provisions until the Commission issues the disclosure rules mandated by Sarbanes-Oxley.

We hope that you find the information contained in this letter useful. If you would like further information, please do not hesitate to contact me at 603-791-7796 or Cynthia Strauss, Director of Money Market Research at 603-791-7740.

Very truly yours, Lawrol Collemplay
David L. Murohy

cc: Alan L. Beller, Director

Division of Corporation Finance

United States Securities and Exchange Commission