



LETTER OF COMMENT NO. 23

Michael M. Monahan
Director, Accounting Policy
(202) 624-2324 t (202) 572-4746 f
mikemonahan@aclf.com

October 15, 2008

Mr. Russell G. Golden
Technical Director
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

Re: File Reference Proposed FSP FAS 140-e and FIN46(R)-e

Dear Mr. Golden:

The American Council of Life Insurers ("ACLI") appreciates the opportunity to comment on the proposed FSP FAS 140-e and FIN46(R)-e (Proposed FSP). The ACLI represents three hundred fifty-three (353) member companies operating in the United States, of which three hundred forty-five (345) are legal reserve life insurance companies, and eight (8) are fraternal benefit societies. These 353 member companies account for 93 percent of total assets, 93 percent of the life insurance premiums, and 94 percent of annuity considerations in the United States.

The Proposed FSP would require extensive disclosures prior to the finalization of the amendments to FAS 140, *Accounting for Transfers of Financial Assets* ("FAS 140") and FIN46R, *Consolidation of Variable Interest Entities, revised December 2003* ("FIN46R"). While we agree that transparency is necessary, the information provided to users of the financial information may be jeopardized due to the lack of time and resources necessary to gather the additional requirements of the Proposed FSP. The required disclosures will significantly increase our current disclosures relating to variable interest entities ("VIEs") and transferred assets and we will expend significant resources to gather all of the data necessary. This will be challenging to complete for our year-end financial statements. Furthermore, it is not reasonable to require this "quick fix" without the opportunity to fully vet the underlying concepts that are changing in the context of the exposure documents for FAS 140 and FIN46R.

For entities to complete an evaluation of all VIEs and special purpose entities ("SPEs") in the timely manner required for financial statement issuance, creates a large operational burden on the entities. This operational burden comes at a time that the market conditions are forcing entities to be focused on significant accounting issues such as fair value valuation of financial assets and evaluation of other than temporary impairments. Given these issues, this Proposed FSP should be considered low priority and removed from the FASB agenda.

We have two primary concerns with this Proposed FSP:

First, the Proposed FSP changes the framework for determining your population for disclosures which may result in an increased volume of disclosures, absent the other changes. A few examples include:

FAS 140:

Existing Population: Securitized financial assets and transfers to SPEs if interests continued to be held

Proposed Population: Financial assets transferred to an SPE (regardless of securitization) and transfers to SPEs if any continuing involvement exists

FIN46R:

Existing Population: VIEs where the entity is the primary beneficiary or has a significant interest

Proposed Population: VIEs where the entity is the primary beneficiary, has a significant interest, is a sponsor that holds a variable interest or has a variable interest in qualified special purpose entities ("QSPEs")

As these examples show, the Proposed FSP requires entities to evaluate whether or not their VIEs and SPEs would meet the new population, a task that could take considerable time to do.

Second, once the population is identified, there is a significant task of gathering all the new data points required for the enhanced disclosures. These new data points include:

FAS 140: Quantitative information about gains or losses; more detail to assumptions used in measuring the fair value of the interests held; the nature, purpose, size, activities of the SPE; cash flows between a nonconsolidated SPE, etc

FIN46R: Methodology for determining if the entity is the primary beneficiary; significant factors, assumptions, and judgments made in this determination; qualitative and quantitative information about your involvement. If the entity is the primary beneficiary, the data points include: carrying amount and classification of the assets and liabilities that are consolidated, the fair value of these assets and liabilities. If the entity is a QSPE, nature, purpose, size, and activities, including how the entity is financed; and terms of implicit and explicit arrangements to provide financial support.

This list is significantly longer than the existing requirements that primarily consist of disclosing the nature, purpose, size, and activities of the smaller subset of VIEs and less voluminous information on SPEs. The gathering of detail that would be required to meet this list is very cumbersome. For example, if an entity currently has no reason to know the fair value of the assets and liabilities for a VIE, they are now required to determine this information for disclosure purposes by year-end, which may require negotiations with the structure sponsor, which is unreasonable in the time frame proposed. Disclosures regarding QSPEs creates another challenge. As they are currently scoped out of FIN46R, companies have previously not had the need to have the information required by the Proposed FSP. A comprehensive review of QSPEs and their associated operating agreements will need performed to ascertain this information. In addition, under current guidance, companies have relied on quantitative measures to determine the primary beneficiary. The use of qualitative measures will not be effective until the exposure draft to FIN46R has been approved and adopted. If the Proposed FSP is issued, companies will need to determine how to satisfy the disclosure requirements in those instances where qualitative measures are not performed with the current VIEs. This effectively requires the adoption of the amendments to FIN46R before the standard is issued.

In the Proposed FSP, the Board notes that they don't think the task of disclosing this information should be difficult for public entities given the similarity of the population and types of disclosures to those required by the *Sample Letter Sent to Public Companies That Have Identified Investments in Structured Investment Vehicles, Conduits or Collateralized Debt Obligations (Off-balance Sheet Entities)*; we disagree. The SEC letter addresses only structured investment vehicles, conduits, and collateralized debt obligations. The Proposed FSP requires disclosure of a larger population of items, as discussed in

the examples above, in particular, all VIEs, not just those that are conduits; and all QSPEs. Furthermore, the Proposed FSP requires disclosures above and beyond the SEC disclosures. For example, the SEC letter doesn't require discussion about the methodology for determining if the entity is the primary beneficiary of a VIE; significant factors, assumptions, and judgments made in this determination; or the fair value of assets consolidated if the entity is the primary beneficiary of a VIE. The Proposed FSP will be difficult to implement as the requirements are not sufficiently similar to the SEC requirements outlined in their letter.

In summary, the Proposed FSP is going through a short comment and implementation period to remedy an issue the FASB Board feels is problematic. However, this Proposed FSP effectively implements concepts and ideas that have not had the proper amount of time to be discussed and evaluated. The task of disclosing these types of items is the equivalent of implementing the proposed revisions to FAS 140 and FIN46R that are currently in exposure draft form. While the amounts are not recognized in the financial statements, a full evaluation must be performed to identify these types of items for disclosure. Additionally, the financial statement users will see disclosure of items that might not make it into a final FAS 140 and FIN 46R standards after their comment period concludes, which could be misleading. The disclosures that are implemented should be implemented at the same time that the underlying guidance is changed.

Recommendation

While we are supportive of the FASB's efforts to expand disclosures relating to VIEs and SPEs, it would be burdensome on entities to be required to complete an evaluation of all VIEs and SPEs by the time their annual financials are released to determine if their population for disclosure needs increased, to gather the relevant data points required to be disclosed for the old and new population, and to write a clear and logical disclosure that financial statement users would find beneficial. Furthermore, it is not reasonable to require this quick fix without the opportunity to fully vet out the underlying concepts that are changing in the context of the exposure documents for FAS 140 and FIN46R. Given the current market conditions and the issues that companies are facing, the time and attention required to fully discuss this Proposed FSP and to implement it, if it were to become effective, is not available to practitioners. This Proposed FSP should be deferred and the disclosures revisited when the comment period for the FAS 140 and FIN 46R exposure drafts occurs.

We thank you for this opportunity to express our views, concerns, and recommendations on this developing accounting guidance. Should you have any questions or wish to discuss our concerns in greater detail, please feel free to contact us

Sincerely,



Michael M. Monahan
Director, Accounting Policy