



Paul Graham

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December 14, 2007

Technical Director - File Reference Proposed FSP SOP 07-1-a Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116

Re: FSP SOP 07-1-a re: SOP 07-1: Clarification of the Scope of the Audit and Accounting Guide "Investment Companies" and Accounting by Parent Companies and Equity Method Investors for Investments in Investment Companies

Dear Technical Director:

The American Council of Life Insurers (ACLI)¹ is writing with respect to the Financial Accounting Standards Board (FASB) issuance of FSP SOP 07-1-a re: SOP 07-1: Clarification of the Scope of the Audit and Accounting Guide "Investment Companies" and Accounting by Parent Companies and Equity Method Investors for Investments in Investment Companies

As noted in our letter dated September 21, 2007 to Accounting Standards Executive Committee (AcSEC) on the discussion of certain draft Technical Practice Aids (TPA) regarding SOP 07-1 (see attached), the ACLI expressed a number of significant issues with the SOP and requested AcSEC provide further clarification in the release of the current TPA or a future TPA. As you will note in our letter, we have a number of significant issues with the SOP. The purpose of the SOP was to correct some narrow abuses. Instead, the SOP raises significant issues, and imposes significant changes, far beyond what was originally intended. We believe the SOP 07-1 is flawed, and should be permanently deferred.

We thank the FASB for its consideration of our comments and would be pleased to discuss our views further. If you have any questions or need further information, please contact Alan Close (aclose1@wi.rr.com, 414-327-4192) or Paul Graham (paulgraham@acli.com, 202-624-2164).

¹ The ACLI is the principal trade association for life insurers, representing 373 members that account for, in the aggregate, 93 percent of the total assets, 91 percent of the life insurance premiums, and 95 percent of annuity considerations in the United States.

Sincerely,

Paul S. Graham, III

Vice President, Insurance Regulation and

Paul S. Dunham II

Chief Actuary

Cc: AICPA/AcSEC



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September 21, 2007

Ms. Kim Hekker Technical Manager, Accounting Standards American Institute of Certified Public Accountants 1211 Avenue of the Americas New York, NY 10036-8775

Re: SOP 07-1: Clarification of the Scope of the Audit and Accounting Guide "Investment Companies" and Accounting by Parent Companies and Equity Method Investors for Investments in Investment Companies

Dear Ms. Hekker:

The American Council of Life Insurers (ACLI)¹ is writing with respect to the recent Accounting Standards Executive Committee (AcSEC) discussion of the proposed issuance of certain Technical Practice Aids (TPAs) regarding SOP 07-1, Clarification of the Scope of the Audit Guide and Accounting Guide "Investment Companies" and Accounting by Parent Companies and Equity Method Investors for Investments in Investment Companies (the "SOP"). ACLI feels there remain a number of significant issues with the SOP and therefore request the AcSEC provide further clarification in the release of the current TPAs or a future TPA. Some of the issues identified in this letter, to be resolved, would require FASB consideration as they would be considered more than an interpretation of the SOP.

Issues

The following points outlines ACLI's areas of concern:

1. It is our understanding that establishing the criteria for which entities are considered investment companies was intended to curb the abuses whereby companies hold assets in an investment company for preferential accounting outcomes. The SOP also provides parameters for parent companies and equity method investors to retain investment company accounting by requiring the establishment of policies that distinguish the nature and type of investments made by investment companies from investments made by other entities within the consolidated group which are not investment companies.

The investment objectives and trading guidelines for investment companies are often established under legal and/or fiduciary requirements and as such can be argued to be different in nature and type than those held by other entities within the consolidated group. Accordingly, the required

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documented policies could support the fact that an investment company and a non-investment company within the same consolidated group are able to hold similar or the same investments and account for them under different bases provided the appropriately documented policies are established.

If a consolidated entity holds investment companies established under legal and/or fiduciary requirements purposely different in nature and in investment management techniques and documents in their policies that the investment objectives are different between those investment companies and other entities in the consolidated group, the appropriate accounting for each entity included in the consolidated group should not be perceived to abuse those accounting guidelines. Tests, tainting and accounting penalties should not be imposed by the SOP if the consolidated reporting entity is able to separately justify the purpose and document the investment rationale for investment companies included in the consolidated group as compared to other entities in the consolidated group.

Despite the documented policy requirement, footnote 16 of paragraph 30B outlines that "similar investments" held by both an investment company and its parent company if carried on different bases of accounting may cause the loss of specialized investment company accounting. This seems to be overly restrictive if the company has already met the definition of an investment company and has a policy in place as described in the SOP.

It is common for multi-line financial services companies to hold similar asset classes and perhaps the same asset (e.g. same fixed maturity name) in both the insurance company general account (held to back the general insurance liabilities of the enterprise) and in an investment fund (i.e. investment product offering to external clients). Even though similar assets may be held by both consolidated entities the business purpose, customers, etc are different.

Clarity is needed in how the footnote regarding "similar investments" interacts with the other requirements outlined in the guidance. Further, we interpret the term "similar investments" as intended in the SOP to mean similar assets (e.g. same fixed maturity security), however, we note that the terminology may be otherwise utilized in entities' disclosures to refer to asset classes and therefore we request formal clarification.

2. The SOP has a tainting concept whereby the failure of one investment company entity to meet the criteria for retention of specialized accounting results in all investment company subsidiaries within the consolidated group to lose the specialized accounting. Similar requirements exist with regard to equity method investees managed by the same investment manager and where the preparer has significant influence over the equity method investment. Paragraphs 48 and 49 of the SOP require the application of other relevant GAAP guidance to these entities.

The loss of retention of investment company accounting (for consolidated investment companies or equity method investees) would create a significant burden on the financial reporting and control processes within most organizations as a result of the need to maintain two sets of accounting records for the investment company. Some of the difficulties companies will encounter include:

- Obtaining the appropriate data in order to apply other relevant GAAP to an investment company accounted for on the equity method could be rather difficult despite the existence of significant influence. Such difficulties are caused by existing securities privacy laws and the ability and willingness of the investment manager to obtain and provide timely information.
- For private equity investments there would be significant operational difficulties in obtaining timely financial information.
- Adapting or creating systems and processes to support the preparation of two sets of financial statements.

ACLI requests a delay in the implementation of the SOP with respect to the retention of specialized accounting. The limited time between issuance of the SOP and its effective date causes a concern with the preparers ability to over the difficulties indicated above.

- 3. The requirements to re-evaluate the determination of whether an entity is an investment company and whether investment company accounting should be retained in consolidation each reporting period would be burdensome to many insurers.
 - Existing guidance (i.e. FAS 142 and FIN46R) requires reassessment only upon the occurrence of certain reconsideration events. We advocate that the guidance in the SOP be clarified to require reevaluation only in the event such conditions exist that warrants a reconsideration of the current accounting treatment.
- 4. At the date of implementation, companies that are required to cease the fair value accounting for an investment company may need to consolidate greater than 50% owned investees. In this situation, there needs to be an allocation of the fair value to the existing assets and liabilities of the newly consolidated investee upon adoption. What allocation methodology should be used? Is goodwill now created?
 - ACLI would appreciate having the AcSEC provide clarification surrounding the implementation when fair value accounting is no longer allowed.
- 5. In footnote 10 to paragraph 20, the SOP acknowledges that investment companies may establish wholly owned entities for "legal, regulatory, tax or other reasons". Furthermore, those entities, on a standalone basis, may not meet the provisions of the guidance, such as pooling of funds or multiple substantive investments for current income, capital appreciation or both (if formed to hold a single asset), as outlined in paragraphs 14 16. Thus, as indicated in the guidance, the mere establishment of a legal entity does not negate the possibility that the entity should be considered an investment company as the evaluation needs to consider the attributes of the parent company.

As an example, a separate account of an insurance company (by definition, an investment company under the SOP) forms a wholly owned subsidiary to hold a single asset. If the subsidiary otherwise meets the SOP criteria for an investment company, paragraphs 14 - 16 and paragraph 20 would indicate that the subsidiary should be considered to be an investment company. Presumably, the parent (the separate account investment company) meets the pooling of funds and multiple substantive investments criteria.

An identical wholly-owned subsidiary may be formed by an insurance company's general account to hold a similar, single asset. The pooling of funds and multiple substantive investment criteria are not met by either the subsidiary entity or by the parent insurance company. While not addressed in the SOP, it is our interpretation that the entity may not be considered an investment company because the additional factors to consider would not be met either by the subsidiary entity or by an evaluation of the attributes of the parent company.

As stated in other portions of this memo, there are valid reasons why a similar asset or asset class may be held by two different entities within the consolidated group and that two different accounting bases could be used. Likewise, it is our belief that a legal entity can be established for legal, regulatory, tax or other business reasons and whereby a single asset is held, two different bases of reporting could result, assuming appropriately documented policies are established by the parent company.

We request clarification from AcSEC that in a manner similar to paragraphs 14-16 and 20 that the nature of the non investment parent company should be considered in the determination of whether a subsidiary is an investment company, especially when the subsidiary holds a single asset.

6. For investment companies, there is a general lag in the reporting of results. Typically, quarterly results are usually reported 60-90 days after quarter-end, while annual results are usually reported 90-120 days after a company's fiscal year-end.

We request the AcSEC to provide further transitional guidance in how companies should apply the SOP in light of the reporting lag. For example, at December 31, 2007, a reporting company records the first nine months of 2007 activity from an investment in a limited partnership and then receives the 2007 annual report from the partnership in April of 2008. Should the reporting company record the activity for the last three months of 2007 using guidance that is pre- or post-adoption of the SOP? Likewise, should a reporting company apply this ruling only to the last three months activity or should the reporting company adjust the entire 2007 fiscal year results? We appreciate further clarity regarding these transitional issues.

SFAS 159 Fair Value Option

SFAS 159 was initiated and finalized during the final stages of this SOP project. Since the fair value option can be utilized for financial assets, some early adopters of SFAS 159 utilized the option as a mechanism to continue to account for investments subject to SOP in a manner similar to the specialized investment company accounting. While ACLI acknowledges that the fair value option under SFAS 159 is available for companies to use for financial assets, it is not a permanent and fully effective solution to the issues raised in this document for the following reasons:

- a) It is not available for all asset types:
- b) We question the appropriateness of other accounting guidance (in this case SFAS 159) being used or relied upon by companies to remedy significant practicality issues with applicable guidance; and
- c) If SFAS 159 could be a permanent and effective solution to the issues raised, the need for the SOP would be obviated. We would question whether or not perceived abuse issues could continue to exist subsequent to its adoption.

We thank AcSEC for its consideration of our comments and would be pleased to discuss our views further. If you have any questions or need further information, please contact Alan Close (aclose1@wi.rr.com, 414-327-4192) or Paul Graham (paulgraham@acli.com, 202-624-2164).

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