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September 28, 2009

Technical Director – File Reference No. 1720-100 Financial Accounting Standards Board (FASB) 401 Merritt 7 PO Box 5116 Norwalk, Connecticut 06856-5116

RE: Exposure Draft of a proposed Accounting Standards Update of Topic 810, Accounting and Reporting for Decreases in Ownership of a Subsidiary--a Scope Clarification (File Reference No. 1720-100)

Dear Technical Director:

We appreciate the opportunity to respond to the proposed FASB Accounting Standards Update of Topic 810, *Accounting and Reporting for Decreases in Ownership of a Subsidiary--a Scope Clarification* (the "proposed ASU"). We agree with the proposed amendments and believe that the amendments would eliminate existing conflicts within current U.S. GAAP and provide a basis for more consistent accounting for economically similar transactions that are effected through different legal forms. However, as discussed below, certain provisions in the proposed ASU require further clarification to ensure that the proposed amendments are properly reflected in the ASC.

Although unrelated to the proposed ASU, we have also identified some additional implementation issues related to provisions of Subtopic 810-10, *Consolidation Overall*, that were originally issued as FASB Statement No. 160, *Noncontrolling Interests in Consolidated Financial Statements*, that we believe would be worthwhile for the FASB to consider addressing in a separate project. However, those additional Topic 810 implementation issues should not delay the issuance of the proposed ASU related to the changes in scope of Topics 810 and 845. We have also provided our observations on the format of ASUs for your consideration as you continue to enhance the process for updating the ASC.

Increases in Ownership of a Subsidiary

Based on the proposed amendments, it appears that the proposed ASU would not affect accounting and reporting by an entity for transactions that result in an increase in ownership of a subsidiary when the entity already has a controlling financial interest in that subsidiary. While we agree with the Board's decision to limit the amendments to the



scope of Subtopic 810-10 to transactions involving decreases in ownership of a subsidiary or group of assets constituting a business or nonprofit activity, the amendments to the ASC and the discussion in the basis for conclusions should include an explicit statement as to whether the provisions in Subtopic 810-10 continue to apply for any increases in ownership of a subsidiary when an entity has a controlling financial interest before and after the transaction of a subsidiary that is in-substance real estate or is not a business or nonprofit activity. For example, if an entity has a controlling financial interest in a subsidiary that is in-substance real estate (or a subsidiary that does not constitute a business) and acquires a portion or all of the outstanding noncontrolling interests in that subsidiary, we understand that the entity would continue to apply the provisions of Subtopic 810-10 and account for the change in ownership as an equity transaction. The amendments to the ASC should explicitly specify that treatment to avoid potential confusion regarding this question.

A Subsidiary that is Not a Business or Nonprofit Activity

As discussed in paragraph BC9 in the basis for conclusions in the proposed ASU, the Board decided not to prescribe the accounting that should be applied if an entity sells a partial interest or an entire interest in a subsidiary that is not a business or nonprofit activity. Instead, entities would be required to evaluate the substance of the subsidiary and the transaction and apply appropriate U.S. GAAP. While we agree with the Board's decision not to provide accounting guidance for decreases in ownership of a subsidiary that is not a business or nonprofit activity, we believe that the amendments to the ASC should explicitly state that the provisions in Subtopic 810-10 are not applicable by analogy, and that entities should apply other U.S. GAAP, as applicable, to those transactions. We believe that an explicit statement in the ASC itself is necessary since the basis for conclusions will not be part of the ASC.

Exchange of a Group of Assets that Constitute a Business or Nonprofit Activity for a Noncontrolling Interest

The proposed ASU would amend the accounting for the exchange of a group of assets that constitutes a business or nonprofit activity for a noncontrolling interest in another entity to be consistent with the proposed amendments in Subtopic 810-10. We agree with that conclusion; however, the scope of and references to Subtopic 810-10 need to be clarified.

The guidance for asset exchanges currently exists in Subtopic 845-10, *Nonmonetary Transactions-Overall*, originally issued as EITF Issue No. 01-2, "Interpretations of APB Opinion No. 29." Paragraph 845-10-30-25 in the proposed ASU states, in part: "Paragraph 810-10-55-1A explains that, if the asset Entity A transfers to Entity B in



exchange for a noncontrolling interest in Entity B is a subsidiary, the loss of a controlling financial interest in that subsidiary is a deconsolidation accounted for in accordance with the guidance in Topic 810." The Board should consider whether paragraphs 810-10-30-25 and 810-10-55-1A and the references to paragraph 810-10-55-1A in paragraph 845-10-30-25 need to be amended to reflect that the transferred subsidiary is a business or nonprofit activity, and not in-substance real estate, in order for the guidance in Topic 810 to apply.

Furthermore, the Board should amend the guidance and example in paragraph 845-10-30-26 to clarify that the assets exchanged for a noncontrolling interest in an entity do not constitute a business or nonprofit activity.

Disclosures

Paragraph 810-10-50-1B states that if a "subsidiary" is deconsolidated, the parent must disclose certain information about the transaction. The Board should consider whether those disclosures apply to all subsidiaries, even if the subsidiary is in-substance real estate or is not a business or nonprofit activity. We believe that the relevant disclosures in other applicable U.S. GAAP would apply in circumstances where the subsidiary is insubstance real estate or is not a business or nonprofit activity, and that the disclosures provided in paragraph 810-10-50-1B may not be applicable.

If it was the Board's intention for all subsidiaries to be subject to the disclosure requirements in paragraph 810-10-50-1B, the Board should include an explicit statement in the ASC to make it clear that although the amended Subtopic 810-10 does not provide *accounting* guidance for decreases in ownership of subsidiaries that are in-substance real estate or are not businesses or nonprofit activities, entities are still required to follow certain disclosure requirements as provided in the proposed ASU for decreases in ownership of all subsidiaries, regardless of whether those subsidiaries are in-substance real estate or are not businesses or nonprofit activities.

Effective Date

If the final ASU is issued by the end of 2009, we believe that it should be effective immediately for all new transactions, with early application permitted by an entity that has previously adopted an alternative accounting policy. We understand that the Board may be concerned that early adoption may reduce comparability between different reporting periods, however, we do not believe this is a compelling reason to preclude early adoption especially when the requirements ultimately are retrospectively applied to the original effective date of Statement 160. As discussed in the basis for conclusions, many of the implementation issues were first discussed in September 2008 in EITF Issue



No. 08-10, "Selected Statement 160 Implementation Questions," for which a consensus-for-exposure was reached in November 2008. As such, constituents have been aware of these issues, including the EITF's proposed consensus on these matters, for several months and we understand that many entities have been applying the proposed guidance in EITF 08-10. Given that the proposed ASU will require retrospective application to the beginning of 2009 for calendar-year entities, we do not believe that an option for early application will have a significant negative impact on comparability and, more importantly, is consistent with the Board's objective to require consistent accounting for economically similar transactions that are different in legal form.

Other Subtopic 810-10 Implementation Issues

There are additional Subtopic 810-10 issues that we believe the Board should consider addressing in a separate project.

Temporary Loss of Control

Subtopic 810-10 does not provide a scope exception for circumstances involving a "temporary loss of control" over a subsidiary. Subtopic 810-10 requires entities to apply the deconsolidation provisions of paragraph 810-10-40-5 even in the event of a loss of control for a short period of time. As an example, if a parent has a controlling financial interest in a subsidiary in which employees of that subsidiary exercise of share options cause the parent's interest to fall below 50%, this would represent a loss of control under Subtopic 810-10 even if the parent subsequently repurchases shares in the open market to re-obtain a greater than 50% controlling interest. Without clarification, the existing provisions in Topic 810 appear to require entities to account for this transaction as a loss of control with gain or loss recognition under paragraph 810-10-40-5, and a subsequent business combination under Topic 805, *Business Combinations*. If the FASB believes an alternative approach is appropriate in situations involving a temporary loss of control, the Board should explicitly address that issue in the ASC.

Temporary Control

Paragraph 810-10-40-6 provides guidance for circumstances that might indicate multiple arrangements (transactions) should be accounted for as a single transaction. However, there is no such provision in Topic 805 for transactions that might be structured to achieve a specific accounting result, or circumstances where the acquirer knows that control or loss of control will be temporary.

Format of Accounting Standards Updates



We support the FASB's move to the ASC and the ongoing process to update the ASC as new standards are issued. However, we believe that the FASB could improve the understandability of the updates to the ASC by either (1) including a standards section within the ASU so that readers can better see the broader issue of and provide context within the ASC that is being addressed or (2) providing additional information within the amendments section about the purpose of the amendments. The current format of ASUs makes it difficult to understand the changes being made.

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We would be happy to further discuss the specifics of these issues in more detail at the request of the Board or the staff. If you have any questions about our comments or wish to discuss any of the matters addressed herein, please contact Mark Bielstein at (212) 909-5419 or Kimber Bascom at (212) 909-5664.

Sincerely,

