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Via email: director@fasb.org

Re: Proposed Accounting Standards Update, *Consolidation (Topic 810): Principal versus Agent Analysis* (File Reference No. 2011-220)

Dear Technical Director:

This letter represents the comments of certain members (see list on page 12) of the Asset Management Industry Accounting Policy Group (“AMIAPG”), comprising a forum of companies primarily engaged in the asset management business. The AMIAPG companies represented by this letter include both publicly-traded and privately-held asset managers who collectively manage more than 3,500 investment funds, both domestically and internationally, including registered investment companies, hedge funds, private equity funds, exchange-traded funds and collective investment trusts, in addition to separate accounts and other sponsored investment products. The nine companies represented by this letter collectively have subsidiaries registered as investment advisors, broker/dealers, trust banks and insurance companies, and oversee approximately \$5 trillion of assets under management.

We appreciate the opportunity to provide comments to the Financial Accounting Standards Board (the “FASB” or the “Board”) on the Proposed Accounting Standards Update (“ASU”), *Consolidation (Topic 810): Principal versus Agent Analysis* (“the Proposal” or the “Proposed ASU”). We commend the work of the Board, together with the International Accounting Standards Board (“IASB”), to further develop consolidation guidance that takes the unique nature of the investment management industry into consideration. We believe that the unique nature of our industry and the relationship between the asset manager and a managed fund were contemplated when the Board issued ASU 2010-10, *Consolidation (Topic 810): Amendments for Certain Investment Funds*, the deferral of the application of the current consolidation guidance in ASC Topic 810. We also commend the Board on its decision to continue to allow the retention of investment entity accounting upon consolidation by a non-investment company parent, which is different than the IASB’s proposal, which does not allow the retention of investment entity accounting upon consolidation by a non-investment entity. Finally, we agree with the Board’s intent that the application of the Proposed ASU should not result in significant changes to certain existing consolidation conclusions, as we continue to believe that consolidation (in most cases) of mutual funds (inclusive of money market mutual funds and their international equivalents) would not provide meaningful information to the users of asset managers’ financial statements.

We believe that the majority of the enhancements to ASC 810 reflected in the Proposed ASU improve the existing two consolidation models (the variable interest entity, “VIE,” and voting rights entity, “VRE,” models); however, we have the following primary areas of concern:

- I. Overarching Principle for the Determining Whether a Decision Maker is a Principal:** The Proposed ASU does not include an overarching principle that can be universally applied to determine when the consolidation of another entity is appropriate;
- II. Flowchart Illustration of Each Step Required in the Consolidation Analysis:** The actual steps required in the consolidation analysis are not clearly illustrated in the Proposed ASU. In addition, the examples included in the Proposed ASU are not holistic examples; specifically, they do not provide clear guidance on how to analyze a unique set of facts and circumstances under the two consolidation models in their entirety;
- III. Practical Application of the Principal versus Agent Analysis:** The factors within the Principal versus Agent Analysis, including but not limited to the rights held by other parties and the exposure to variability of returns from other interests are difficult to weight and apply in a manner such that the consolidation result intended by the Board is consistently achieved;
- IV. Money Market Funds and Impact of Anticipated Regulatory Reforms:** The guidance under the Proposed ASU does not provide a clear path toward ensuring that money market funds are not consolidated, consistent with the intent of the Board; and,
- V. Disclosures:** In instances where a decision maker is determined to be an agent of a VIE through the application of the guidance in the Proposed ASU, certain disclosures required under the Proposed ASU do not provide the users of the financial statements with meaningful information.

I. Overarching Principle for the Determining Whether a Decision Maker is a Principal

We believe that, given the qualitative nature of the Principal versus Agent Analysis, the application of the Proposed ASU would be enhanced by the inclusion of an overarching principle that can be universally applied to determine when consolidation of another entity is appropriate. We are supportive of a qualitative approach for determining whether a decision maker is acting as a principal or an agent and recognize that the application of such an approach requires judgment based upon an evaluation of structure-specific facts and circumstances. An overarching consolidation principle would enhance the usability of the final standard, would guide the approach to judgmental decisions that must be made in the analysis, and would increase the likelihood that the consolidation analysis, including the determination of which consolidation model is applicable, would be applied consistently and in a manner that would achieve the results intended by the Board. When developing an overarching principle to include in the final standard, the Board should consider all factors, including but not limited to whether the decision maker is legally considered to be a principal or an agent. Therefore, the Board should contemplate why a reporting entity, who is deemed to be an agent from a legal perspective, may not be an agent from an accounting/consolidation perspective. This industry group is willing and available to continue to work with the staff and Board in refining a “Principle for Principal”.

II. Flowchart Illustration of Each Step Required in the Consolidation Analysis

The flowcharts in ASC 810-10-05-6 are instrumental to understanding the mechanics of the consolidation analysis. These flowcharts should therefore clearly illustrate each specific step in the consolidation analysis. We are concerned that the illustration of the consolidation analysis in the flowcharts as currently presented may lead to confusion in application of the new Principal versus Agent Analysis and confusion regarding which consolidation model (VIE or VRE) should be followed for certain investment entities. We strongly encourage the Board to amend the flowcharts to clearly illustrate the proper order of each step required in the consolidation analysis. We offer a revised flowchart in *Appendix A* for the Board’s consideration, which we explain in the paragraphs that follow.

We understand that the first step in the consolidation analysis (after the consideration of any scope exceptions) is the consideration of the presence of a variable interest. This implies that a reporting entity could have a variable interest in a VIE or a VRE. Accordingly, we have suggested amendments to the definition of a variable interest in the “Other” section of this letter.

The second step of the consolidation analysis, as illustrated in the fourth diamond of the current flowchart in the Proposed ASU, is the consideration of whether the equity investment at risk has any of the characteristics of a VIE. The Proposed ASU modifies the criteria used to determine whether an entity meets the definition of a VIE. Specifically, ASC 810-10-15-14(b)(1) has been modified to indicate that a decision maker acting as an agent would not prevent the holders of equity investment at risk from having the power to direct the activities of a legal entity that most significantly impact the entity's economic performance. As a result, the determination of whether a decision maker is acting in a principal or agency capacity under ASC 810-10-25-39A through 39L must be made *subsequent to* the determination of whether a variable interest exists but *prior to* the determination of whether the entity is a VIE under ASC 810-10-15-14. We propose that the Board clarify, by explicitly illustrating on the flowchart, that the Principal versus Agent Analysis is the second step in the consolidation analysis.

We interpret the guidance in the Proposed ASU to be determinative that an entity under analysis is a VIE if a decision maker is acting as a principal, because the criterion in ASC 810-10-15-14(b)(1) has not been met; however, if a decision maker is acting as an agent, this criterion has been met. When a decision maker is determined to be an agent, the next step in the consolidation analysis would then be the evaluation of the other two VIE criteria in ASC 810-10-15-14a and 15-14c to determine if the entity is a VIE or VRE (see the fifth diamond on the revised flowchart in *Appendix A*). If either of these two criteria are not met, then the entity is a VIE. If, however, these two criteria are also met, then the entity is a VRE. By illustrating the flowchart as we have presented in *Appendix A*, we believe that each required step of the consolidation analysis will be clearly indicated, avoiding confusion and unintended interpretations that would result in debate regarding these outcomes.

The Proposed ASU includes several examples to illustrate whether a decision maker is acting as a principal or an agent. We note, however, that the principal versus agent determination represents only one of many steps in the consolidation analysis. We recommend that the Board expand the existing cases and examples to clearly consider each step of the consolidation analysis depicted in the flowchart, beginning with why a variable interest may or may not exist in the facts and circumstances presented in the example, the Principal versus Agent Analysis considerations and related weighting of factors, which consolidation model should be applied and why, and the ultimate consolidation conclusion regarding the entity under analysis. These recommendations would provide the users of the guidance with more clarity regarding the judgmental considerations for each step in the consolidation analysis, thus promoting a more consistent application of the final standard.

III. Practical Application of the Principal versus Agent Analysis

Weighting of Factors

In addition to establishing an overarching principle that can be universally applied to determine when consolidation of another entity is appropriate, we believe that both preparers and users of financial statements would benefit from more robust guidance and discussion on how the three factors in the Principal versus Agent Analysis should be weighted to achieve the objective of consolidation articulated in ASC 810-10-10-1. Such a discussion would assist preparers of financial statements as they adopt, operationalize, and implement the Principal versus Agent Analysis. Users of financial statements would benefit from the improved consistency with which the final standard is applied. Without more robust guidance from the Board, we are concerned that audit firms and regulators may issue interpretive guidance that could provide results not intended by the Board. The discussion included throughout this section of our letter illustrates potential areas of confusion over the appropriate relative weighting that should be applied to the various factors in the Principal versus Agent Analysis.

We are concerned that there is an overemphasis given to a decision maker's exposure to variability of returns from other interests that it holds (ASC 810-10-25-39K and 39L) in determining whether the decision maker is acting as a principal or an agent. The extent of a decision maker's equity involvement should not be a determinative factor in the Principal versus Agent Analysis. However, we acknowledge that at some level of equity ownership, in combination with exposure to the economics from a managed fund, it may be more difficult to refute that the fund manager is not acting on its own behalf (i.e. acting as a principal). We believe that the Principal versus Agent Analysis of an asset manager should contemplate a heavier weighting to the combination of the purpose and design of the fund, the asset manager's fiduciary role, and the level of fiduciary oversight provided to a fund by a board or regulator, as further discussed in the various sections of this letter that follow.

We recommend that the Board deemphasize the significance of the level of equity ownership in the examples included in the Proposed ASU. Many of these examples are overly focused on economics which, in the absence of an overarching consolidation principle, could result in the emergence of bright lines for asset managers as they perform the Principal versus Agent Analysis. Consider Case B (ASC 810-10-55-3L through 3T) which indicates that a fund manager that receives a fee that is: i) commensurate with services provided; and ii) based on customary terms and conditions (a "market-based fee") and that holds no equity interest is acting in the capacity of an agent. Whereas, Case C (ASC 810-10-55-3U through 3AC) indicates that a fund manager that receives a market-based fee and that holds a 20% equity interest is acting in the capacity of a principal. In executing its duties as a fiduciary, fund managers are legally required to make decisions in the best interest of investors. This fiduciary duty is not affected by the existence of an investment in the fund by the asset manager. Given the duty of the fund manager to act as a fiduciary on behalf of investors, and in consideration of the overall purpose and design of a mutual fund, we would evaluate the facts and circumstances presented in Case C and conclude that the fund manager is acting in the capacity of an agent.

Exposure to Variability: Seed Investments

For seed investments, we are concerned that the acquisition of additional equity interests by external investors could cause reconsideration of consolidation models (VIE or VRE) within the Proposed ASU. In the normal course of our business, fund managers may provide seed money to certain proprietary funds in order to establish a track record prior to marketing them to external investors. These seed mutual funds ("seed funds") may be regulated under the 1940 Act, registered internationally or unregistered funds that operate similarly to registered funds.

Through the application of the voting interest model under ASC 810-10-25-1 through 25-14, we would conclude that a seed fund would not be consolidated when the fund manager and its related parties hold less than 50% of the equity in that fund. Under the guidance in the Proposed ASU, the determination of which consolidation model should be applied to a seed fund depends on whether the decision maker is acting as a principal or an agent. Specifically, a fund manager will have a pro-rata economic interest of greater than 50% of the equity in a seed fund at the inception of the fund, at which point one could conclude that the decision maker is acting as a principal if heavier weighting is placed on the decision maker's exposure to variability of returns from other interests (ASC 810-10-25-39L). In this instance, consistent with the guidance in the suggested flowchart in *Appendix A*, the seed fund would meet the definition of a VIE. Conversely, once external investors acquire additional equity interests or the decision maker redeems its seed investment such that the decision maker has a pro-rata economic interest of less than 50% of the equity in a seed fund, one could conclude that the decision maker is acting as an agent after considering the purpose and design of the mutual fund and the relevant factors under ASC 810-10-25-39D through 39L. In this instance, consistent with the suggested flowchart in *Appendix A*, the seed fund would not meet the definition of a VIE and as a result, the seed fund would be evaluated for consolidation as a VRE.

We believe, however, that seed funds should not meet the definition of a VIE, given the fiduciary role of the asset manager and the impact of the governing body and regulatory oversight of the fund. We would accordingly place less weight on the economic factors in ASC 810-10-25-39K and 25-39L in making the principal versus agent determination, since the level of equity held by the fund manager will inevitably decline given the purpose and design of the seed fund. Said differently, the purpose and design of a seed fund does not change as a result of the acquisition of additional equity interests by external investors or redemption of the fund manager's seed investment. We recommend that the Board modify the guidance under ASC 810-10-35-4(b) to clearly indicate that events in which interests become exposed to expected losses of a legal entity as a result of activities anticipated at the inception of that entity would not constitute a reconsideration event.

Exposure to Variability: Impact of Exposure to Other Interests

We note that the examples in the Proposed ASU draw a distinction between a pro-rata and a subordinated interest in entities being evaluated in the consolidation analysis. For example, in Case E regarding an asset backed collateralized debt obligation ("CDO") included in ASC 810-10-55-3AN through 55-3AX, the asset manager holds a 35% interest in the equity tranche, which was designed to absorb the first dollar risk of loss related to credit and interest rate risk and to receive any residual returns as a result of the sale of investments held by the CDO. The remaining equity is held by a single third party investor. The example seems to place heavier weighting on the level of the asset manager's first loss position, which is designed to create an obligation of the holder to absorb losses and a right to receive benefits from the fund that are disproportionate to other debt holders. The example concludes that the asset manager is acting as a principal. Despite this guidance, we believe that an asset manager that holds a nominal investment in an equity tranche of a CDO structure could conclude that it is acting as an agent. We recommend that the Board clarify the instances, through scenarios built upon the facts and circumstances outlined in Case E, under which an asset manager that holds a subordinated investment may conclude that it is acting as an agent to avoid confusion, inconsistency of application, and bright-lines.

Additionally, we recommend that the Board consider adding other examples containing common agreements between an asset manager and the investment vehicles that it sponsors, such as explicit guarantees/funding of losses, other forms of credit enhancement, and/or disproportionate exposure to variability of returns. While we understand that the Board has included Case E (a subordination scenario) and Case F (a credit enhancement scenario), it is unclear as to whether these factors would always result in a conclusion that the decision maker is acting as a principal. We suggest that the examples be written with a combination of various factors, some of which indicate that the decision maker is acting as a principal and others which indicate that the decision maker is acting as an agent.

Exposure to Variability: Impact of Related Parties

We are concerned that the scope of related party interests that must be considered in the Principal versus Agent Analysis is too broad. We are also concerned that the related party guidance would be too onerous to apply in practice. ASC 810-10-25-42 and 25-43 indicates that for purposes of determining whether a decision maker is acting as a principal or an agent, the decision maker should consider direct economic interests held and interests held through its related parties, including de facto agents. This related party definition considers economic exposure that is neither directly nor indirectly attributable to the decision maker. For example, limited partners in a partnership may have an agreement that they cannot sell, transfer, or encumber their interests without prior approval of the other limited partners, the board, or the decision maker. Depending on the facts and circumstances, the general partner, as a decision maker, may need to consider the economic interests held by related party limited partners as its own interests in assessing whether it is acting in the capacity of a principal or an agent. We agree that the Principal versus Agent Analysis should include economic exposure to an entity created through the related party relationships illustrated in ASC Topic 850, *Related Party Disclosures*, as this

is necessary in order to circumvent any potential abuse of the consolidation standard. However, interests that do not provide the decision maker with a direct or indirect economic exposure should not be an indicator of control. Therefore, we recommend that the Board revise the definition of related parties provided in ASC 810-10-25-43 to only focus on those relationships that create direct and indirect economic exposure to the decision maker. This revision would conform the related party guidance in the VIE subsections of the Proposed ASU with the related party guidance in the partnership (810-10-25-96) and decision-maker fee analysis (810-10-55-37A) subsections of the Proposed ASU.

We are also concerned that the removal of the scope exceptions for employees and employee benefit plans of the decision maker in ASC 810-10-55-37(a) and (b) would result in a related party definition that is too broad in application. For example, consider a profit sharing trust held for the benefit of employees that is sponsored by an affiliate of the decision maker. The sources of funds used to purchase assets include: i) funds contributed by plan participants that are immediately vested; and ii) profit sharing match and other amounts contributed by the plan sponsor that vest over a period of time. The entire profit sharing trust would be considered a related party of the decision maker under ASC 850 and therefore, would need to be considered in the context of the overall Principal versus Agent Analysis. We would interpret the guidance under ASC 810-10-25-42 to only require the decision maker to consider its indirect exposure to interests in unvested plan assets held by its affiliate in the overall Principal versus Agent Analysis. The Board previously did not consider employee benefit plans of the decision maker and its related parties as variable interests under ASC 810-10-55-37A. Given that there are legitimate reasons for employee benefit plans to invest in an entity being evaluated for consolidation by an asset manager, we ask the Board to not remove the prior exception for employee benefit plans.

Rights Held by Other Parties: Evaluation of Substantive Kick-out and Participating Rights

We agree that substantive kick-out and participating rights held by multiple unrelated parties should be considered in the Principal versus Agent Analysis and that the lack of these rights is not determinative in the analysis. We also agree with the removal of prescriptive voting thresholds in determining whether such rights are substantive. However, while the number of unrelated parties needed to act together to exercise those rights is one factor to consider in the Principal versus Agent Analysis, we believe that the evaluation should focus on the substantive nature of those rights.

We understand that, under the Proposed ASU, substantive rights held by a single party are determinative that the decision maker is acting as an agent. However, in most investment vehicles (e.g., an open-end mutual fund), it is highly unlikely that these rights will be held by a single investor. Rather, investors often exercise their right through: (1) majority or supermajority votes of investors; (2) resolutions of a board of directors or (3) actions by a trustee. We recommend that the Board modify the examples in the Proposed ASU to include more robust explanations of how substantive rights held by multiple unrelated parties impact whether the decision maker is acting as a principal or an agent.

Rights Held by Other Parties: Series Funds

Despite the Board's intent that the majority of mutual funds should not be consolidated, we are concerned that the application of the Proposed ASU to certain mutual fund structures, such as series funds, could not only result in an inconsistent application of the proposed guidance, but, also the consolidation of certain mutual funds.

It is common for mutual funds subject to the Investment Company Act of 1940 (the "1940 Act") and other mutual funds, such as internationally-domiciled fund structures and collective investment trusts, to be organized in a series structure (refer to *Appendix B*). Specifically, multiple mutual funds (or "series") are commonly held in a single trust governed by a board of directors (which may or may not be independent) or other governing

body (collectively hereafter referred to as a “governing body”) that has a fiduciary duty to protect the interests of shareholders and/or to ensure that the asset manager is acting in a fiduciary capacity. The governing body holds substantive participating rights over each mutual fund or series, given that they actively participate and are responsible for establishing, monitoring, and revising the policies, guidelines and framework under which the asset manager and its related parties perform the day-to-day activities of the fund, including directing investments. The shareholders (i.e., holders of equity investment at risk) may have the ability to remove the governing body; however, in a series structure, this right may not be considered substantive given that it can only be exercised at the trust level. Specifically, a vote of the shareholders of all mutual funds or series held in a trust would be required to remove the governing body of the trust. An asset manager is appointed by the governing body at the mutual fund or series level. In a 1940 Act fund, the shareholders have substantive rights to remove the fund manager at the mutual fund or series level. Specifically, a vote of the shareholders of a single or stand-alone mutual fund would be sufficient to remove the manager of that mutual fund.

Mutual funds are generally considered VREs under the existing consolidation guidance. However, recent discussions with audit firms, industry groups and other interested parties have made us aware of an argument that a mutual fund in a series structure may meet the definition of a VIE as a result of the amendments to ASC 810 articulated in the Proposed ASU. Specifically, some parties have argued that mutual funds in a series structure may meet the definition of a VIE under ASC 810-10-15-14(b)(1) since the equity holders do not have substantive rights to remove the governing body. We do not agree with this conclusion.

The substantive participating rights held by the governing body are executed in a fiduciary capacity in the best interest of the mutual fund or series and its shareholders. As a fiduciary, the governing body must generally act in good faith with a degree of diligence, care and skill that a person of ordinary prudence would exercise under similar circumstances in a like position. Therefore, it is reasonable to conclude the shareholders, through the activities of the governing body acting in a fiduciary capacity, have retained the power to direct the activities of the mutual fund or series that most significantly impact its performance. Moreover, an asset manager that is determined to be an agent is acting as an agent on behalf of and for the benefit of the shareholders of the funds. This concept is consistent with the view expressed by the Board in Case D (ASC 810-10-55-3AD through 55-3AM) that a board of directors is a “mechanism” through which the shareholders can exercise their substantive rights. We recommend that the Board include an additional example specific to mutual funds organized in a series structure. This example should provide clear guidance regarding the impact of the activities performed by the governing body in a series fund in the determination of: i) whether the asset manager is acting in the capacity of a principal or agent under ASC 810-10-25-39A through 25-39L; and ii) whether the mutual fund or series is a VIE under ASC 810-10-15-14.

If it is determined that a decision maker is acting in the capacity of an agent, the holders of the equity at risk would retain the characteristic of a controlling financial interest under ASC 810-10-15-14(b)(1). We believe that if this is conclusive, then series structures would not fail this VIE criterion, because we would place less weight on the rights held by others in series fund structures in the Principal versus Agent Analysis, given the fiduciary oversight element. As a result, the remaining conditions under ASC 810-10-15-14 would need to be evaluated to determine whether an entity is a VIE, and series structures would generally not fail these considerations. Therefore series structures would continue to be considered VREs and evaluated under that consolidation model.

Rights Held by Other Parties: Impact of Fiduciary Oversight

We are concerned that the substantive rights held by a governing body designed and implemented to comply with regulatory requirements are not being appropriately weighted in the Principal versus Agent Analysis. For instance, the distinguishing factor between the example in Case C (ASC 810-10-55-3U through 55-3AC) under which the Board concluded that the asset manager is acting as a principal and the example in Case D (ASC 810-10-55-3AD through 55-3AM) under which the Board concluded that the fund manager is acting as an agent is the existence of an independent board of directors. We agree that the substantive rights held by an independent board of directors should receive more weighting on the basis of the particular facts and circumstances considering the purpose and design of a mutual fund. However, we recommend that the Board also apply a heavier weighting to the existence of a governing body designed and implemented to comply with regulatory requirements (i.e. such as the 1940 Act or similar regulations impacting foreign registered funds). As support for this recommendation, the Board should consider the substantive role that the governing body plays in the context of the overall purpose and design of a mutual fund or its international equivalent. For example, mutual funds subject to the 1940 Act are designed to provide investors with risks and returns of a fund that ultimately depend on the fund manager's performance. The fund manager is required to invest consistent with the fundamental investment policies of the fund. The governing body may recommend any changes in the fundamental investment policies of the fund; however, such changes must ultimately be approved by the shareholders. The governing body has a fiduciary responsibility to protect the interests of shareholders and actively participates and is responsible for establishing, monitoring, and revising the policies, guidelines and framework under which the manager and its related parties perform the day-do-day activities of the fund, including directing investments. Other participating rights held by the governing body are highlighted in *Appendix B*.

To further support the recommendation provided in the preceding paragraph, we do not consider the role and effectiveness of a governing body created to comply with the 1940 Act or similar foreign regulations to be diminished to the extent that its members are not fully independent. Rather, the rights attributable to such governing body along with their operating effectiveness in accordance with such regulations should be considered. It is worth noting that Section 10 of the 1940 Act does limit the number of interested persons that may be members of the governing body; nonetheless, interested persons may be members. Similarly, foreign funds may not require the governing body to be fully independent. Luxembourg domiciled funds, for example, require the governing body to not be independent (i.e., at least ½ of the governing body must consist of persons directly associated with the asset manager). In addition, a regulator of a foreign fund may compel the governing body and/or the asset manager to act in the capacity of a fiduciary for the benefit of shareholders to the extent that they are not doing so. The asset manager is also limited from making substantive changes to the fund without approval from the regulator and/or fund shareholders. We recommend that the Board modify the guidance under ASC 810-10-25-39G and Case D to place a heavier weighting on the existence of substantive rights held by the governing body that is operating in accordance with the relevant regulatory requirements rather than solely on the existence of a fully independent board of directors.

Further, certain sponsored funds are set up as trusts with a named independent third-party trustee that cannot be removed by the investors. The trustees function similarly to a board of directors in that they are required to act in a fiduciary capacity pursuant to local statute or trust deeds. In addition, the trust deeds often permit the trustees to remove the asset manager of a fund without cause if it is in the best interest of the investors to do so. As the Proposed ASU is currently written, it is unclear whether the kick-out rights held by an independent third-party trustee would be considered substantive. It is also unclear how the existence of such rights would impact the determination of whether the asset manager is acting as an agent or principal in this situation. Accordingly, we recommend that the Board include additional examples that address this situation to ensure that asset managers reach the principal versus agent determination intended by the Board.

IV. Money Market Funds and Impact of Anticipated Regulatory Reforms

Exception for Money Market Funds

Question 10 in the Proposed ASU states, in part that, “The Board does not intend the application of the proposed Update to result in money market mutual funds being consolidated.” We agree with the Board’s conclusion that money market mutual funds and similar structures (such as their international equivalents) should not be consolidated. However, we are concerned that the guidance in the Proposed ASU does provide a clear path toward meeting this objective.

In Case C (ASC 810-10-55-132D) and Case F (ASC 810-10-55-3BJ) an overall conclusion is made that the decision maker is acting in the capacity of a principal. This conclusion is reached by applying a heavier weighting to the perceived “implicit financial obligation” of a sponsor to ensure that the entity operates as designed in order to “manage the risk to its reputation in the marketplace.” We are concerned that the conclusions in these examples could be inappropriately analogized to money market funds. Specifically, one could suggest that any discretionary action taken by an asset manager to mitigate reputational risk represents an implicit variable interest. We believe that any action that may be taken by an asset manager to mitigate reputational risk that is not contractually required should be considered protective in nature and therefore has no bearing on the Principal versus Agent Analysis or the determination of whether a money market fund is a VIE.

We believe that the only means to ensure that the Board’s objective to not consolidate money market funds is achieved is to provide a scope exception similar to that which was provided in ASC 810-10-65-2aa.1.ii and aa.2 through the amendments of ASU No. 2010-10. Therefore, we recommend that the Board amend the guidance in ASC 810-10-15-17 (the section of the guidance that provides general scope exceptions to applying the VIE guidance in ASC 810) to add the following scope exception specific to money market funds:

“A reporting entity is not required to evaluate a money market fund for consolidation under this Topic provided that: i) the money market fund is required to comply with and operates in accordance with requirements under, or that are substantially equivalent to those included in, Rule 2a-7 of the Investment Company Act of 1940; ii) any equity interests held by the reporting entity and its related parties are pro-rata to those held by unrelated investors; and iii) any interest held does not represent an obligation of the reporting entity and its related parties to fund credit losses that are significant to the money market fund. The term *related parties* in this paragraph refers to all parties as defined in ASC 810-10-25-42 and 25-43.”

Therefore, in determining whether this exception should be applied, the reporting entity would need to consider the purpose and design of the entity and the existence of any subordinated financial support provided by it and its related parties. In the event that a reporting entity has provided an explicit guarantee that should be separately accounted for under ASU 460, the scope exception could not be applied. We believe the scope exception previously described is consistent with the existing guidance under ASC 810-10-25-52 which states, in part, “an implicit variable interest may exist if the reporting entity can be *required* to protect a variable interest holder from *absorbing losses* incurred by the legal entity.” Positioning the scope exception within the VIE subsections of the guidance would ensure that money market funds would continue to be evaluated for consolidation under the voting interest model.

To further support the recommendations articulated in the preceding paragraph, we would like the Board to appreciate our view that there is a clear distinction between a discretionary action taken by a fund’s board of directors to waive management fees (the primary purpose of such an action would be to ensure that the fund remains competitive such as to maintain positive or zero net yields) and a guarantee obligation under which a fund sponsor could legally be required to absorb the credit losses associated with the underlying assets of the fund. ASC 810-10-55-89 includes a discussion about whether there is an economic incentive to act as a

guarantor, whether such actions have been taken in the past and whether such actions are a conflict of interest or illegal. Also, the existing guidance under ASC 460-10-15-4d requires for guarantee obligations to be recognized, measured at fair value and appropriately disclosed. We believe that the scope exception described in the preceding paragraph, coupled with the addition of clarifying language to the examples in Case C and Case F could meet the Boards objective and eliminate unintended results in application of the guidance in the Proposed ASU to money market funds.

Impact of Anticipated Regulatory Reform

The design of money market funds may be fundamentally altered as a result of regulatory reforms mandated by the Securities and Exchange Commission (“SEC”). Other similar proposals may also be considered internationally. We believe that money market funds may be at risk of consolidation to the extent that the SEC adopts certain money market fund proposals, such as the requirement of the fund sponsor or fund manager to provide a capital or liquidity buffer. In the context of the guidance in the Proposed ASU, we recommend that the Board consider one or both of the following actions to counteract the impact of the new regulatory reforms to achieve its express intention not to consolidate money market funds: 1) as discussed earlier, provide an exception to consolidation for entities with the characteristics of money market funds; and 2) revisit the following guidance in ASC 810 after the issuance of anticipated regulatory rulings if they include capital or other changes that could potentially result in consolidation: i) the consideration of whether the fund manager is acting in the capacity of a principal or an agent (ASC 810-10-25-39K and 25-39L); ii) the initial determination of whether the entity is a VIE (ASC 810-10-15-14); and iii) the requirement to reconsider whether an entity is a VIE (ASC 810-10-35-4(b)).

V. Disclosures

If our interpretation of the proper order of the steps required to be undertaken in the consolidation analysis is correct as illustrated in *Appendix A* and discussed throughout this letter, and if we are able to apply heavier weighting to the purpose and design of our role regarding, and fiduciary responsibilities related to, managed funds as set for this letter, then we believe that we will be able to support that we are acting in an agency capacity within the Principal versus Agent Analysis for most managed funds. Therefore, most funds will be considered VREs under the Proposed ASU and the quantitative disclosure requirements for VIEs will not be applicable.

If our interpretations set out in this letter are not correct, we believe that the quantitative disclosures required for non-consolidated VIEs under ASC 850-10-50-4, 50-5A, 50-12 and 50-15 would not provide useful information to the reader of the financial statements of the decision maker. We recommend that only the qualitative information required by the aforementioned sections of the guidance be disclosed for non-consolidated VIEs for which the decision maker is acting as an agent.

VI. Other

Transition and Early Adoption

We believe the Proposed ASU should be effective at the beginning of the first calendar year that is at least 18 months after the final standard has been issued. We believe this time is necessary given the required complex nature of the guidance and the comprehensive assessment of an entity’s relationship with mutual funds, money market funds, structured investment vehicles and partnerships. Nevertheless, we believe that early adoption should be permitted.

Definition of Terms

The terms “controlling financial interest” and “variable interest” are used throughout the Proposed ASU. Because these terms are integral to the consolidation analysis, we suggest providing and/or clarifying the definitions in the Master Glossary to help avoid confusion and to ensure consistency in interpretation and application of the guidance. We have provided our proposal for these definitions below:

Controlling financial interest – ownership by one reporting entity, either directly or indirectly, of more than 50% of the outstanding voting shares of another entity; or interests held by the primary beneficiary of a VIE.

Variable interest -- the investments or other interests that will absorb portions of a variable interest entity’s (VIE’s) or a voting rights entity’s (VRE’s) expected losses or receive portions of the entity’s expected residual returns are called variable interests. Variable interests in a VIE or VRE are contractual, ownership, or other pecuniary interests in a VIE or VRE that change with changes in the fair value of the VIE’s or VRE’s net assets exclusive of variable interests.

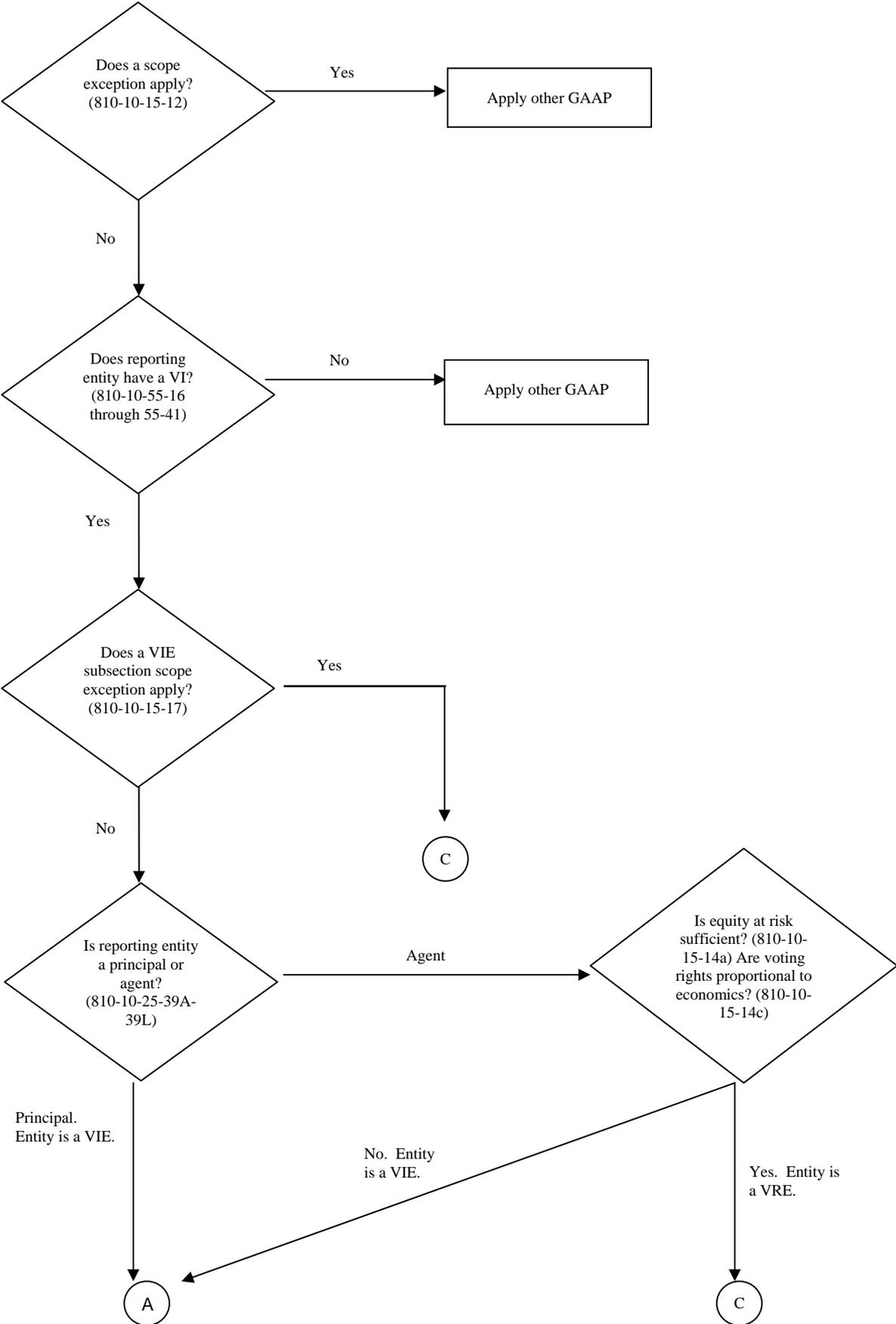
* * * * *

We appreciate the opportunity to provide comments on the Proposed ASU. Several members represented below are interested in participating in any upcoming roundtables on this topic scheduled by the FASB. Should you have any questions, please feel free to contact any of the representatives below.

/s/ David K. Stewart, Senior Vice President & Controller	Ameriprise Financial, Inc.	(612) 678-4769
/s/ Ted Chambers, Controller	Artio Global Investors	(212) 297-3918
/s/ Stacey H. Friday, Director, Accounting Policy	Federated Investors, Inc.	(412) 288-1244
/s/ Leah Kwartler, Vice President, Accounting Policy and Standards	Fidelity Investments	(617) 392-2692
/s/ Gwen Shaneyfelt, Senior Vice President – Financial Reporting and Compliance	Franklin Templeton Investments	(650) 312-3590
/s/ Aimee Partin, Head of Accounting Policy and Disclosures	Invesco Ltd.	(404) 724-4248
/s/ Steve Swain, Manager, Financial Reporting and Policies	Janus Capital Group, Inc.	(303) 336-4473
/s/ Timothy J. Lorber, Director and Head of Accounting Policy and Corporate Controls	Legg Mason, Inc.	(410) 454-2839
/s/ James D. Campbell, Director of Accounting Policy & Controls	Wellington Management Company, LLP	(617) 790-7634

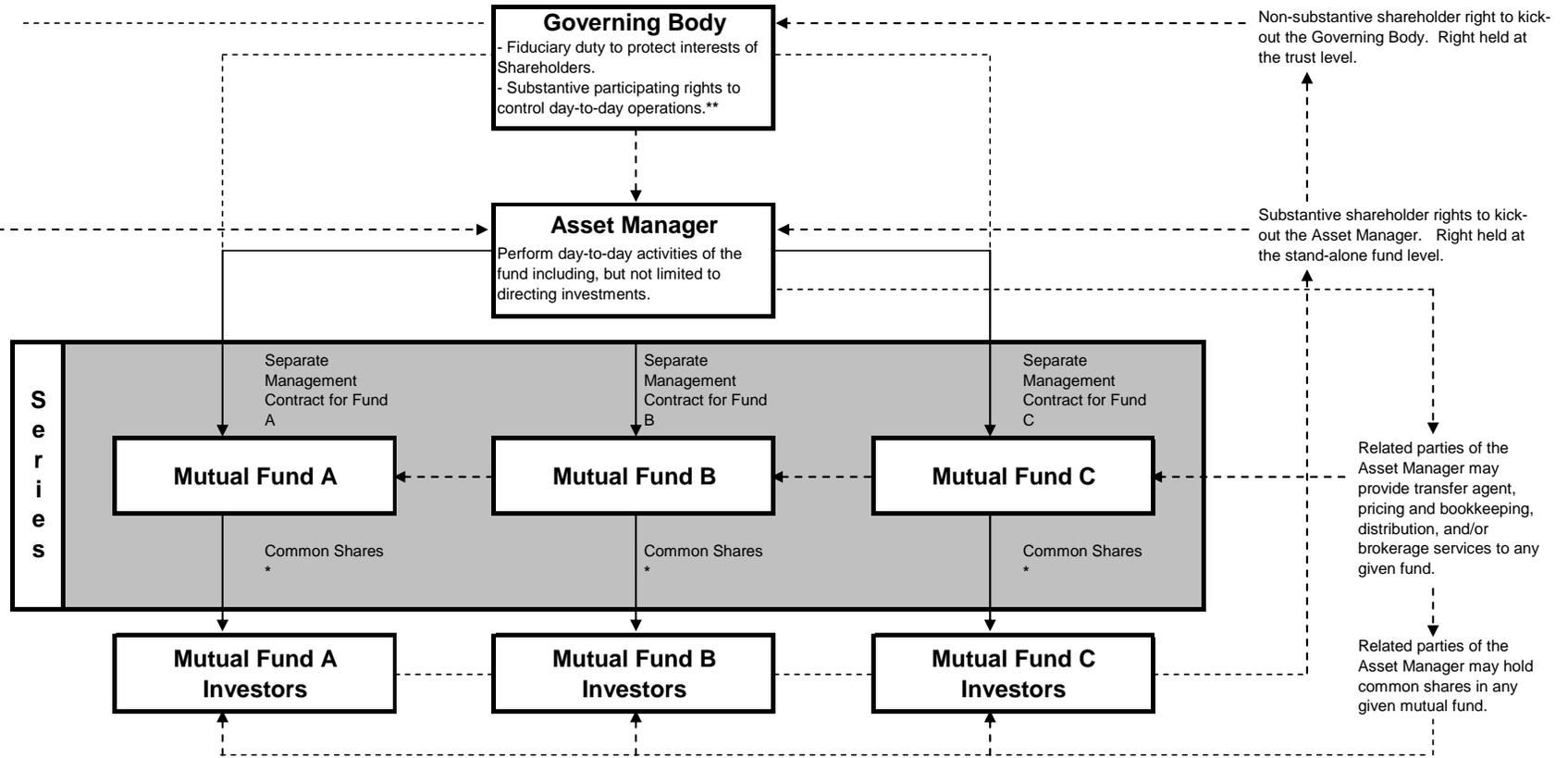
cc: International Accounting Standards Board

Appendix A: Suggested Revisions to the Flowchart in ASC 810-10-05-6



Appendix B: 1940 Act Series Funds

Substantive Governing Body right to kick-out the Asset Manager.



* Mutual funds may have several classes of shares, which differ with respect to fee arrangements, exchange rights, and/or redemption rights. Profits and losses from investments are allocated equally across shares.

** Substantive participating rights held by the Governing Body may include but are not necessarily limited to the following: 1) overseeing the investment manager as it directs the investments of the fund in accordance with its investment objective, policies and limitations; 2) assessing the quality of the investment research available to the manager; 3) supervising all management and administrative services provided to the fund; 4) resolving conflicts of interest between the fund and service providers; 5) making decisions to reorganize, merge, or sell all or a portion of the assets of each trust or fund or class; 6) monitoring activities bearing on the investment results of the fund, including, but not limited to investment performance, compliance with investment policies and restrictions, etc.; 7) monitoring and establishing valuation policies, procedures and controls for investments; 8) recommending any changes in fundamental and non-fundamental investment policies of the fund; 9) setting proxy voting guidelines for investments held by the funds; and 10) for money market funds only, taking the necessary steps to preserve the \$1 per share NAV, including, but not limited to selling portfolio instruments prior to maturity, withholding dividends, redeeming shares in kind, establishing NAV by using available market quotation; and taking other measures at the discretion of the Governing Body.