

### FLORIDA INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

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June 19, 2008



LETTER OF COMMENT NO. 12

Technical Director FASB 401 Merritt 7 PO Box 5116 Norwalk, CT 06856-5116

Via Email Sent to: director@fasb.org

"File Reference No. 1500-100R"

### Gentlemen:

The Accounting Principles and Auditing Standards Committee, ("The Committee"), of the Florida Institute of Certified Public Accountants (FICPA) has reviewed and discussed the request for additional comments on a potential revision to the October, 2006 proposed statement, *Not-for-Profit Organizations: Mergers and Acquisitions.* 

The Committee responds to the questions as listed in the Request for Comments section as follows:

### Question 1:

The Committee believes that the definition of a merger, as stated, is appropriate for distinguishing mergers from acquisitions by not-for-profit organizations. However, we do believe that the definition should emphasize specifically that a merger is NOT the acquisition of assets.

# Question 2:

The Committee believes that the definition of a merger, together with the definition of control, can be practically applied with reasonable consistency.

## Question 3:

The Committee believes that the definitions of a merger and control, taken together, are sufficiently clear that a mere transfer of assets for a time is not a merger.

## Question 4:

The definition of a merger does not require additional criteria or guidance. Ceding control is discernable despite attempts to structure a new board so that one entity can retain control. This is always a possibility. The Committee suggests adding the comment of a "more likely than not" scenario.

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### Question 5:

The Committee believes that having one or more parties retaining an "opt-out" clause alone would not be sufficient evidence that a party has not ceded control. The opt-out clause alone should not be the only determining factor. There are many terms and conditions of opt-out clauses that can make the clause more restrictive or costly, or at the least not beneficial for the opting-out party. The more restrictive the clause is on the ability to opt-out, the more evidence of ceding control. The converse is true when an opt-out clause is easy or minimal cost is involved, then one could argue that there is no ceding of control.

The Committee appreciates this opportunity to share its views and concerns and to comment on the potential revisions to the October, 2006 proposed statement, *Not-for-Profit Organizations: Mergers and Acquisitions.* Members of the Committee are available to discuss any questions you may have regarding this communication.

Very truly yours,

Yanick J. Michel, CPA, Chair

Yanick J. Michel

FICPA Accounting Principles and Auditing Standards Committee

Committee members coordinating the response:

Edward Labrecque, CPA Steven Bierbrunner, CPA