

# McGladrey & Pullen

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January 6, 2010

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

File Reference No. 1750-100

Dear Mr. Golden:

We are pleased to comment on the proposed Accounting Standards Update, *Consolidation (Topic 810) – Amendments to Statement 167 for Certain Investment Funds* (the “proposed ASU”).

Our comments are provided below in response to the questions presented in the proposed ASU.

**Question 1: Do you agree that the Board should defer the effective date of Statement 167 for entities that meet the requirements in the proposed Update? Please elaborate as to why you believe this deferral is appropriate or not?**

We agree with the proposed deferral for the reasons stated in the “Summary and Questions for Respondents” section. That is, we believe the Board and the International Accounting Standards Board should attempt to reconcile their positions to issue consistent guidance. Furthermore, we believe the Board should reconsider the input received from users of financial statements of investment managers as to the usefulness of requiring consolidation on the investment funds under management.

**Question 2: The Board expects that the deferral would only affect a limited number of types of entities, including but not limited to mutual funds, hedge funds, mortgage real estate investment trusts, private equity funds, and venture capital funds. The Board expects that this deferral would not apply to securitization entities, asset-backed financing entities and entities formerly classified as qualifying special-purpose entities. For example, the Board does not expect this deferral to apply to (a) structured investment vehicles, (b) collateralized debt/loan obligations, (c) commercial paper conduits, (d) credit card securitization structures, (e) residential or commercial mortgage-backed entities, and (f) government-sponsored mortgage entities. That list is not meant to be all-inclusive as to the entities that the Board expects would not meet the requirements in this proposed Update for deferral. Do you believe that the amendments to paragraph 810-10-65-2 in this proposed Update clearly identify the population of entities that would qualify for this deferral? If not, please provide suggested language to assist the Board in achieving this goal.**

While we agree with the Board’s expectation that the deferral would only affect a limited number of entities, we believe the language should be made clearer to address certain questions. For example, is an entity that invests in real estate and carries its real estate investments at fair value subject to the deferral? This question more generally is whether an entity that follows some, but not all, of the measurement principles of Topic 946 is eligible for the

*McGladrey & Pullen, LLP's Comment Letter re File Reference No. 1750-100*

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deferral. We believe this question can be addressed by including examples of entities subject to the deferral in the listing of affected entities in the introductory portion of the Accounting Standards Update and would not have to be included in the Codification.

**Question 3: Do you believe that the Board's proposed change to include language to clarify that related-party arrangements should be considered for all of the conditions in paragraph B22 of Statement 167 is operational and achieves the Board's objective?**

We agree with the Board's proposed language to clarify that related-party arrangements should be considered for all of the conditions in paragraph B22 of Statement 167.

The language in the proposed ASU (810-10-55-37A) would clarify that related party arrangements would apply to all of the conditions in paragraph B22 of Statement 167. However, in making that clarification, the proposed ASU excludes employees from the list of related parties and de facto agents.

We also recommend that the Board consider whether similar and further clarifications are needed for the new paragraph 14A added by Statement 167. That paragraph requires an assessment of an enterprise's variable interests in the variable interest entity, and requires inclusion of involvement of related parties and de facto agents in the assessment. Paragraph 14A refers to paragraph 16 for a definition of "related parties and de facto agents." One such group of individuals included in the list of de facto agents in paragraph 16 of Statement 167 (codified as 810-10-25-43) is employees. We suggest that the Board clarify in which of these contexts employees should be considered de facto agents and why employees would be treated differently in different considerations. Further, it is not clear how to apply the phrase "including involvement of related parties and de facto agents" in the assessment of the enterprise's variable interests, especially in situations involving leases between related parties such as those illustrated in FSP FIN 46R-5.

**Question 4: Do you believe that the Board's proposed changes to condition (c) in paragraph B22 of Statement 167 are operational and achieve the Board's original objective in Statement 167 that a quantitative test should not be the sole determinant of whether a fee arrangement is a variable interest?**

We agree with the Board's conclusion and believe the proposed changes achieve the original objective.

We would be pleased to respond to any questions the Board or its staff may have about any of the preceding comments. Please direct any questions to Jay D. Hanson (952-921-7785) or Richard Stuart (203-905-5027).

Sincerely,



McGladrey & Pullen, LLP