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October 12, 2010

Mr. Trevor Farber
Practice Fellow
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

Re: International Accounting Standards Board Staff Draft "IFRS X *Consolidated Financial Statements*"

Dear Mr. Farber:

BlackRock, Inc. ("BlackRock") appreciates the opportunity to comment on the International Accounting Standards Board ("IASB") Staff Draft "IFRS X *Consolidated Financial Statements*". BlackRock is a global investment manager, overseeing $3.15 trillion of assets under management at June 30, 2010. BlackRock and its advisory subsidiaries manage over 2,700 investment companies, including registered investment companies, hedge funds, private equity funds, exchange traded funds and common and collective trusts.

As noted below, we support the IASB proposal to use a single-model approach to assessing control. We believe that a single consolidation model will provide more consistent financial reporting and will address the concerns many companies, and asset managers in particular, have communicated about the operational difficulty and anomalies resulting from the current accounting requirements. It also would reduce the administrative burden many asset managers face on a quarterly basis when they are required to reassess which consolidation model applies and then, with respect to variable interest entities ("VIEs"), to apply the complex rules to each entity.

Our comments follow, and are focused principally as an asset manager and a preparer of financial statements. However, we have been informed by analysts within our organization that consolidation of advised investment companies detracts from the usefulness of asset managers' financial statements, obfuscating operating and non-operating results, the statement of financial position and related disclosures. Accordingly, the final standard should appropriately distinguish when a manager is an agent and records its fees for the services performed and when a manager is a principal, because of holding other financial interests or providing other financial support that would require consolidation.

1) **The Staff Draft provides a single concept of control that is used to evaluate control on a consistent basis for all types of entities (both voting interest entities and variable interest entities). Do you agree that a single-model approach to assess control will provide more consistent financial reporting for all types of entities rather than providing separate models for voting interest entities and variable interest entities? If not, why not?**

As noted above, we agree with a single-model approach to assess control. Should the FASB repeal the SFAS No. 167 deferral in lieu of adopting a single-model approach, a significantly greater number of investment companies would be subject to consolidation. For example, if the general partner ("GP") receives an advisory and performance fee, it has no substantive investment and third party investors hold simple majority kick-out rights with regard to the GP (as opposed to a single party which holds substantive rights to remove the GP), the fund would be a VIE that may be required to be consolidated by the GP, as the GP has both power and a variable interest from its performance fee.

Alternatively, under the current SFAS No. 167 deferral guidance (resulting in the application of FIN 46(R)), if the GP made a substantive investment in the same fund, the fund would qualify as a voting rights entity ("VRE") that would not be consolidated because the simple majority kick-out rights would overcome the presumption that the GP controls the VRE[1].

Both the application of SFAS No. 167 and FIN 46(R) each result in counterintuitive results as noted above. Additionally, the consolidation of investment companies produces financial statements for asset managers that are less meaningful to investors. We believe that a single-model approach that considers power and exposure to loss provides the best indication of which party controls an entity and therefore should consolidate.

2) **The Staff Draft does not incorporate the U.S. GAAP concept of a variable interest entity or a structured entity. Rather, the Staff Draft provides that the way in which control is assessed will vary depending on how the activities that significantly affect the entities' returns are directed For example, how control is assessed will depend on whether the decisions that significantly affect the returns of the entity are made through voting rights. Without an explicit definition of a variable interest entity, do you believe that (ignoring the differences when analyzing decision making relationships and the effect related party arrangements have on the analysis) the Staff Draft will produce the same consolidation conclusion as the recently issued U.S. GAAP guidance for consolidating variable interest entities (FASB Accounting Standards Codification Subtopic 810-10, Consolidation)? If not, what are the situations that produce a different conclusion and why? Do you think it is sufficiently clear how to assess power and control for all types of entities in the Staff Draft?**

We do not believe that the Staff Draft will result in the same consolidation conclusions that were reached under the guidance in FASB Accounting Standards Codification Subtopic 810-10, *Consolidation*. As noted above, absent the SFAS No. 167 deferral, the majority of BlackRock managed hedge funds, private equity funds and real estate funds may require consolidation under U.S. GAAP. For products in which BlackRock does not hold a substantive investment and for which kick-out/liquidation rights are held by a simple majority of third party investors (as opposed to a single party), the equity holders at risk would not be deemed to have substantive decision making. As a result, the funds would be VIEs and BlackRock would consolidate because it has a variable interest as a result of the potential performance fees that it may receive.

Consistent with the standard setters' objective of moving toward more principle-based accounting standards, the Staff Draft is less prescriptive than both FIN 46(R) and SFAS No. 167 and requires a comprehensive assessment of many factors when determining which

[1] EITF 04-5, *Determining Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar Entity When the Limited Partners Have Certain Rights.*

party (if any) must consolidate an entity. With respect to an asset manager, the key to this analysis is whether the manager is acting as principal or agent. Based on the criteria outlined in paragraphs B55 – B71, and assuming a manager's economic involvement is limited to receiving a market-rate management fee and market-rate potential performance fee, and that the manager holds a non-substantive investment in the managed fund, we believe a manager may conclude that it is acting as agent[2] and therefore consolidation is not required. As a result, we believe that there may be instances under the Staff Draft where a manager may not be required to consolidate certain entities for which it is currently the primary beneficiary under SFAS No. 167. We believe that the criteria in paragraphs B55 – B71 should result in accounting for an asset manager that appropriately reflects the substance of its arrangements with investors as a fiduciary obligated to act in the best interests of its clients.

BlackRock generally is supportive of the overall consolidation model proposed in the Staff Draft. That is, we agree that power over significant decisions related to the investee is an important indicator of which party controls and consolidates. However, unlike the proposal in paragraph 7(b) of the Staff Draft, which requires "exposure, ***or*** rights to, variable returns" as a condition of control, we believe that control/consolidation should involve exposure to loss associated with an actual or potential cash outlay, not exposure to variability in the amount of the fee. The IASB appears to indirectly acknowledge the importance of exposure to loss in paragraph B55(c) of the principal/agent discussion where it requires an analysis of "other interests in the investee" separate from an analysis of fees received from the investee (the distinction being that "other interests" generally would include investments, guarantees, and written or purchased options, all of which would subject an entity to risk of loss related to an actual/potential cash outlay, as opposed to management/performance fees an entity may receive, which represent an opportunity cost rather than an exposure to loss). We agree that exposure (or lack thereof) to loss is an important factor in the principal/agent (and therefore consolidation) analysis. As a result, we recommend that the principal/agent discussion be included in the standard itself rather than in Appendix B – Application Guidance.

Attached is a document prepared by BlackRock and shared with the IASB Staff and selected FASB and IASB Board members in January 2010. The document outlines our analysis and proposed consolidation conclusions under various scenarios for asset managers using criteria similar to those in paragraph B55 of the principal/agent analysis in the Staff Draft. We would expect to reach similar consolidation conclusions applying the proposed guidance in the Staff Draft.

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3. **The Staff Draft proposes that in order to control an entity, the reporting entity must have the power to direct the activities of that entity[3]. Power is defined as having existing rights that give the reporting entity the current ability to direct the activities that significantly**

[2] The scope of a manager's decision making over the investee and the rights held by other parties also would be weighted as part of this analysis.

[3] A reporting entity controls another entity when the reporting entity has (1) power over the other entity, (2) exposure, or rights to variable returns from their involvement with the other entity, and (3) the ability to use its power over the other entity to affect the amount of the reporting entity's returns.

affect the entity's returns. Do you agree with the control principles articulated in the Staff Draft? Do you agree that there are situations when a reporting entity can have control of an entity controlled through voting rights with less than a majority of voting rights? Why or why not?

We agree with the control criteria included in paragraph 7 of the Staff Draft, however we recommend that a fourth criteria be added which requires a party to be acting in a principal capacity in order to control an entity for which voting rights are not relevant. We also suggest that the Board modify the language in paragraph 7 to clarify that the party that controls an entity consolidates the entity. Finally, because the principal/agent analysis is a critical component in assessing control/consolidation, we suggest that the discussion be included in the basic text of the standard as opposed to paragraphs B55 – B57 of Appendix B.

We also believe there should be a rebuttable presumption that a shareholder with less than a majority of voting rights does not consolidate an investee, absent specific factors that overcome this presumption. Consistent with the concerns noted in paragraph BC79 of the Staff Draft, it may be difficult for a shareholder with less than a majority of the voting rights to obtain the information to determine whether it has control over a reporting entity, such as information about the shareholder structure, the degree of organization and other shareholders' future intentions. We believe that this limitation should be taken into account in the final standard. We do note, however, that there may be situations in which it is apparent that a reporting entity with less than a majority of voting rights has control over and should consolidate an investee (e.g., for reasons similar to those articulated in paragraphs B34 – B44 of the Staff Draft, such as when the voting rights are narrowly dispersed and an investor with a disproportionately large investment relative to other investors is also the entity's sponsor).

4. **The Staff Draft states that if the activities that significantly affect an entity's returns are directed through voting rights, a reporting entity holding less than a majority of the voting rights (assuming no potential voting rights or other contractual rights exist) has power when it can unilaterally direct the activities of the entity that significantly affect the entity's returns. This assessment requires judgment. The Staff Draft provides application guidance to determine when a reporting entity holding less than a majority of the voting rights in an entity controlled through voting rights has power. Specifically, the Staff Draft provides that, in some cases, a determination can be made about whether a reporting entity has power by just considering the abs olute size of the reporting entity's holding of voting rights, the size of its voting rights relative to the size and dispersion of holdings of the other vote holders, the voting patterns at previous shareholders' meetings, and other arrangements. Do you believe that there are circumstances when, considering only these factors, an assessment could be made about whether a reporting entity has power? Why or why not?**

As stated above, we believe there may be circumstances when, considering only the factors included in the question above, an assessment could be made about whether a reporting entity has power. However, we also point out that paragraph B38 of the Staff Draft includes additional factors other than those included in the question above (e.g., potential voting rights and contractual arrangements with other voting holders that may be relevant in determining whether a reporting entity has power). In addition, there may be other factors unique to a particular situation that could result in a determination of power, and so we recommend the final standard specify that an analysis not be limited to only those factors currently included in the Staff Draft.

5. **In other circumstances the Staff Draft provides that additional evidence may be needed in order to conclude that a reporting entity holding less than a majority of the voting rights in an entity controlled through voting rights has power. The Staff Draft includes indicators that may provide additional evidence in these circumstances to assist in determining whether the reporting entity has power. Do you believe that these indicators provide sufficient guidance to conclude that a reporting entity has power in situations where it is unclear as to whether a reporting entity has power solely based on the absolute size of the reporting entity's holding of voting rights, the size of its voting rights relative to the size and dispersion of holdings of the other vote holders, the voting patterns at previous shareholders' meetings, and other arrangements? If not, what additional indicators should be included or which of these indicators should be removed?**

   The indicators listed in paragraph B38 provide assistance in determining whether a reporting entity has power; however, we do not believe the list of factors is necessarily all inclusive. There may be additional factors prescribed in legal or other documents. In addition, an investor may not always have access to the information required to make the determination of whether it has power. As stated above, we believe that the Staff Draft should be modified to include a rebuttable presumption that a party holding less than a majority of the voting rights does not have control unless sufficient evidence exists to overcome that presumption. We also believe the Staff Draft should be revised to indicate that consideration be given to the governance structure of an entity, including the composition of its Board (e.g., whether the Board is comprised of independent directors and the whether the shareholders have the right to elect the Board on a periodic basis). Finally, we agree with and recommend that the factors identified in paragraph B38 remain in the final standard as indicators which may overcome that presumption.

6. **The Staff Draft requires a reporting entity to consider its rights to obtain additional voting rights of another entity, as well as such potential voting rights (options or convertibles, for example) held by other parties, to determine whether the reporting entity has power. Do you believe the guidance in the Staff Draft is appropriate and operational? Specifically, do you believe that the guidance for determining when potential voting rights are considered substantive is operational? If not, what additional guidance would you suggest?**

   We agree that in determining whether the reporting entity has power, the rights of the reporting entity or another entity to obtain additional voting rights should be a consideration. However, similar to our view regarding whether an investor with less than a majority of the voting rights can control an entity, we recommend that the Staff Draft include a rebuttable presumption that it is current outstanding voting rights that determine control, absent significant evidence to the contrary. While it should be possible for an entity to determine whether its potential voting rights provide it with control, it may be more difficult (or impossible) to obtain information regarding potential voting rights held by others involved with the entity. As a result, we suggest that to the extent that an investor is aware, or can readily obtain information regarding potential voting rights held by others, such information be included in the control analysis.

We agree with the conclusion in paragraph B44 that the potential voting rights regarding out of the money options are not substantive; however, we suggest that a third example addressing in the money options be included to highlight other factors that may be considered in the control analysis. Such factors might include the option-holder's current financial ability and/or intent to exercise such options, as well as expectations about the future timeframe under which the options are reasonably expected to be exercised or the potential ability for the option-holder to share in current profits of the entity through exercising the options.

7. **When determining whether a reporting entity acts as an agent, the reporting entity must consider the overall relationship between it and other parties involved with the entity, considering the following factors:**
    a. **The scope of decision-making authority over the entity**
    b. **The rights held by other parties**
    c. **The remuneration the reporting entity is entitled to in the arrangement**
    d. **The reporting entity's exposure to variability in returns as a result of other interests that it holds in the entity.**

Do you believe the guidance related to assessing decision-making arrangements in the Staff Draft is appropriate and operational? Do you believe the Staff Draft would lead to appropriate consolidation conclusions?

We believe that restrictions on an asset manager's activities also should be considered in making the principal versus agent determination. The restrictions should be viewed more broadly than simply the scope of decision making authority over the entity. Although specific limitations on activities, including written investment objectives and portfolio restrictions are key considerations, an asset manager's inability to access fund assets for its own use also is an indicator of an agent relationship which should factor into the analysis. In addition, we believe that an investment manager's fiduciary responsibility to act in the best interest of its client is an important consideration when analyzing restrictions on a manager's activity. The language in paragraph BC102 seems to indicate the IASB Board shares this view in the case where a manager does not hold a substantive investment in the investee. We suggest that the language in paragraph BC102 be included in the base text of the standard rather than in the latter part of the Basis for Conclusions.

We are concerned by the statement in paragraph B59 which implies that if a manager (individually or together with other parties) was involved in establishing the founding documents of the investee or other documents that determine decision making rights, the manager may be acting as a principal rather than an agent. We believe that when an investee is established to provide returns to third party investors (i.e., in instances where a manager neither holds a substantive investment nor has downside risk of loss), the issue as to whether the manager was involved in the initial design should carry less weight in the ultimate determination.

We note that SFAS No. 167 and the SFAS No. 167 deferral state that when evaluating fees paid to decision-makers, any interest in the entity held by a related party of the decision-maker should be treated as if it were the decision-maker's interest, except for employees and employee benefit plans (except if the employees and employee benefit plans are used in an effort to circumvent the provisions of the guidance)[4]. We agree with this exclusion of

[4] SFAS No. 167 excludes employees from the analysis, while the SFAS No. 167 deferral excludes both employees and employee benefit plans.

employee and employee benefit plans and recommend that it be included in the final guidance.

As elaborated in the discussion above, we generally agree with the factors to be considered in the principal versus agent analysis. The indicators provided in the Staff Draft will allow asset managers to account for their involvement with their funds according to the economic substance of the relationship, that of an agent acting on behalf of their clients. Please refer to the attached document in Question 2 which highlights proposed accounting by an asset manager for its involvement with various structures under the guidance set forth in the Staff Draft.

8. **When evaluating a decision-maker's role, rights held by other parties are considered when determining whether a decision-maker is an agent. Specifically, situations in which a single party holds substantive removal rights and can remove the decision-maker without cause, in isolation, would be sufficient to conclude that the decision-maker is an agent. However, if numerous parties hold such rights, those rights would not, in isolation, be conclusive in determining whether a decision-maker is an agent. In such a situation, those rights would be considered together with the other factors included in question 7 above, to determine whether the decision-maker is an agent. Do you believe that removal rights held by numerous parties should be a factor when evaluating whether a decision-maker is an agent? If so, do you agree that it should be one factor but not in and of itself determinative, when evaluating whether a decision-maker is an agent?**

We agree that, in situations where a single party holds substantive removal rights to remove the decision-maker without cause, those facts would be conclusive in determining whether a decision-maker is an agent. In the asset management industry, this would appropriately exclude separately-managed accounts of individual retail and institutional clients from consolidation. Further, we agree that removal rights held by numerous parties should be a factor when evaluating whether a decision-maker is an agent and that factor should not be determinative in and of itself.

A significant number of our mutual funds and other products are managed on behalf of numerous investors where our only interest in the portfolio is the potential to earn market-based management fees. In the case of registered mutual funds, there is an independent board approved by shareholders that has oversight over decision making of the funds. In addition, in many alternative arrangements, investors have the ability to call a vote to remove BlackRock as manager/general partner without cause based on a vote of a simple majority of unaffiliated investors. We believe these rights are indicative of an agent relationship and in most instances are substantive and effectively provide investors with protections similar to those of a separately-managed account held by a single investor. We recognize, however, that there may be instances where such removal rights may not be substantive and, therefore, agree that these rights may be only one factor of many to consider in the determination of whether a decision-maker is an agent.

In addition, we believe that certain clarifications to the guidance in the Staff Draft may be beneficial, as follows:

- Substantive removal rights – The guidance in the Staff Draft refers to "substantive" removal rights. In practice, we recognize that the exercise of removal rights through a vote of multiple investors is rare, but could occur, and therefore, we believe such rights to be substantive regardless of the frequency of their occurrence. Similar to the case in which voters in a public

company approve (rather than replace) the board, the fact that an asset manager/general partner is rarely removed by the exercise of kick-out rights is indicative of most managers and boards being competent rather than the kick-out rights not being substantive. In addition, we believe that board kick-out rights may be as effective, or more effective, than rights held by shareholders if the board is selected by shareholders, meets regularly and is comprised of disinterested directors. Finally, when the ability to redeem from a fund is restricted (i.e., investors can't "walk with their feet"), kick-out rights become even more important to investors. We believe that additional guidance in the Staff Draft may be helpful in determining whether a removal right is substantive or not substantive.

- Dissolution rights – Many investment funds, particularly private equity funds or hedge funds, provide investors with dissolution rights rather than removal rights. Although dissolution rights operate similarly to removal rights (i.e., vote of all unaffiliated shareholders with simple majority vote required for dissolution), they often are utilized in place of removal rights due to the illiquid nature of the investments in the fund and to protect the asset manager from being replaced just prior to receiving certain advisory or performance fees. We believe that in many instances dissolution rights are substantive. Therefore, additional guidance on dissolution rights in relationship to the principal-agent determination would be helpful.
- Other parties – In certain investment fund structures, the rights to remove an investment manager are held by an independent board or trustees, neither of which hold a substantive economic interest in the fund but have a legal fiduciary responsibility to operate in the best interest of fund shareholders. In certain cases, investors have no ability to appoint or remove the fund's board or trustees. The guidance contained in the Staff Draft utilizes the term "rights held by other parties", which would seem to indicate that a substantive removal right held by an independent third-party board or trustee may be a factor to be considered in the principal-agent determination. Additional clarification on this point also would be helpful.

9. **The Staff Draft requires a reporting entity to reassess whether it controls another entity if facts and circumstances indicate that there are changes to one or more of the three elements of control. Do you believe this principle, and the related guidance in the Staff Draft, is sufficiently clear and operational?**

   We agree that a reporting entity should reassess whether it controls another entity when facts and circumstances indicate that there are changes to one or more of the three elements of control. We recommend that the *Continuous assessment* criteria included in paragraphs B76–B80 of Appendix B be included or referenced in the base text of the Staff Draft in a separate paragraph, to make clear that reassessment is performed on a continuous basis. In addition, we recommend that the reassessment section added to the base text of the Staff Draft also reference paragraphs B55–B57, *Delegated power*, to highlight to investors that they should continuously review the status of their principal versus agent relationship.

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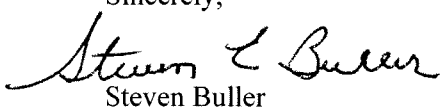
We look forward to the continued deliberations by the FASB and IASB on a converged consolidation standard and are available to address any questions/concerns you may have during that process. We remain interested in participating in the FASB roundtable on November 22 to discuss our observations. Please do not hesitate to contact me at (212) 810-3501 with any questions you may have regarding our comments.

Sincerely,



Steven Buller
Managing Director

[redacted]

Structure							
Entity	**Investors**	**Investor Rights**	**Fee Structure**	**Other Interest**	**Analysis**	**Principal/ Agent?**	**Consolidation ?**
GP	100-none dominant	SMKO[1], no investment restrictions, no redemption limitations, no veto rights	1% base, 10% performance fee	1% equity, No guarantees or significant loss exposure	Restrictions on manager activity? Investor rights, including k/o, redemption? Fees commensurate with effort, market based? Significant exposure to downside risk; significant investment in entity?	P A A A	No
GP	Same as above	Same as above	Same as above	15% equity, no guarantee	Restrictions on manager activity? Investor rights, including k/o, redemption? Fees commensurate with effort, market based? Significant exposure to downside risk; significant investment in entity?	P A A P	Yes
LLC	Same as above	Same as above except board has veto rights over significant decisions	Same as above	Same as above	Restrictions on manager activity? Investor rights, including k/o, redemption? Fees commensurate with effort, market based? Significant exposure to downside risk; significant investment in entity?	A A A P	No

[1] SMKO - simple majority kick-out rights; no restriction on calling a meeting.

Structure							
Entity	Investors	Investor Rights	Fee Structure	Other Interest	Analysis	Principal/ Agent?	Consolidation?
Corporation (i.e., retail fund)	5,000-none dominant, Independent board	SMKO[1], written investment restrictions, no redemption limitations, SEC restrictions on activities	1% base, No performance fee	0% equity, No guarantees or significant loss exposure	Restrictions on manager activity? Investor rights, including k/o, redemption? Fees commensurate with effort, market based? Significant exposure to downside risk; significant investment in entity?	A A A A	No
Collective Trust	100 - none dominant	No k/o rights, written investment restrictions, no redemption restrictions, no veto rights, OCC restrictions on activities	1% base, 0%-10% performance fee	0% equity	Restrictions on manager activity? Investor rights, including k/o, redemption? Fees commensurate with effort, market based? Significant exposure to downside risk; significant investment in entity?	A A A A	No
CDO, highly leveraged, multiple debt tranches and equity	Multiple debt holders, 10 equity holders	SMKO[1], no investment restrictions, redemption restrictions	1% base, 10% performance fee	5% equity, no guarantees or significant exposure to loss	Restrictions on manager activity? Investor rights, including k/o, redemption? Fees commensurate with effort, market based? Significant exposure to downside risk; significant investment in entity?	P A A A	No[2]

[2] Manager does not transfer assets to the entity and therefore the derecognition standards(SFAS 166 - *Accounting for Transfers of Financial Assets - an amendment of FASB Statement No. 140*) are not applicable. The 5% equity interest does not represent either a significant interest in the entity nor does it operate as an indirect guarantee of the CDO debt as a result of subordination.

Structure							
Entity	Investors	Investor Rights	Fee Structure	Other Interest	Analysis	Principal/ Agent?	Consolidation?
CDO, highly leveraged, multiple debt tranches and equity	Multiple debt holders, 10 equity holders	SMKO[1], no investment restrictions, redemption restrictions	1% base, performance fee	Manager transfers assets to the CDO and retains a 15% equity interest (manager does not achieve an accounting sale of the assets[3]); no guarantee	Restriction on manager activity? Investor rights, including k/o, redemption? Fees commensurate with effort, market based? Significant exposure to downside risk, significant investment in entity?	P A A P [3]	Yes[3]
Single seller asset-backed commercial paper conduit [4] ("Conduit")	Hundreds of debt holders	Investment restrictions (manager must invest in high grade collateral), no redemption restrictions	1% base, liquidity fee	Manager may warehouse and transfer assets to conduit or conduit may purchase assets directly in the market with proceeds received from issuing commercial paper, liquidity guarantee[4]	Restriction on manager activity? Investor rights, including k/o, redemption? Fees commensurate with effort, market based? Significant exposure to downside risk, significant investment in entity?	A A A P	Yes[5]

[3] Consolidation is required because it is assumed that the manager's sale of the assets to the CDO does not qualify for derecognition under the guidance in SFAS No. 166.

[4] Manager uses proceeds from commercial paper issuance to purchase hi-grade assets (collateral for the commercial paper liability). Assets may have a longer term than the maturity date of the commercial paper. Sponsor/manager will often provide a liquidity guarantee to the conduit that requires it to fund any shortfall should manager be unable to roll commercial paper at maturity or should proceeds from asset sales be insufficient to cover commercial paper liability.

[5] Consolidation is appropriate as the manager provides a liquidity guarantee exposing it to potentially significant risks.