



October 3, 2011

Ms. Susan M. Cospier
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Re: File Reference No. EITF - 100E

Dear Ms. Cospier:

Grant Thornton LLP appreciates the opportunity to comment on proposed Accounting Standards Update (ASU), *Derecognition of in Substance Real Estate – A Scope Clarification*. We support the Task Force’s efforts to clarify whether a parent that ceases to have a controlling financial interest in a subsidiary that is in-substance real estate because of a default by the subsidiary on its nonrecourse debt must also satisfy the criteria in ASC 360-20, *Property, Plant, and Equipment – Real Estate Sales*, in order to derecognize the real estate.

While we agree with the principle in the proposed ASU—that asset- and liability-level guidance should be applied to transactions involving in-substance real estate—we do not agree with the approach taken in the proposed ASU. We ultimately believe that the proposed ASU should focus on whether the debtor can extinguish the debt, and not on whether the debtor can derecognize the real estate. As further discussed below in the responses to the specific questions in the proposal, we believe that ASC 470-60, *Debt: Troubled Debt Restructurings by Debtors*, provides guidance as to when it is appropriate for the debtor to derecognize assets transferred in full or partial satisfaction of debt. As noted in ASC 470-60-15-6, “Although troubled debt that is fully satisfied by foreclosure, repossession, or other transfer of assets or by grant of equity securities by the debtor is, in a technical sense, not restructured, that kind of event is included in the term troubled debt restructuring in this Subtopic.”

Below we have provided general comments on the proposed Update, as well as responses to the specific questions in the proposal.

General comments

Definition of in-substance real estate

In our view, it is imperative that the proposed Update define “in-substance real estate.” We believe that there is currently diversity in practice as to what is considered in-substance real estate and that without a clear definition of in-substance real estate, the proposed ASU may not

achieve its objective. For example, we are aware that acquisitions of real estate through an entity may be considered business combinations and that some may argue that it is therefore a business, rather than in-substance real estate. As result, some may further argue that such transactions would be outside the scope of this proposed ASU since the transaction involves a business. We note, however, that ASU 2010-02, *Accounting and Reporting for Decreases in Ownership of a Subsidiary – a Scope Clarification*, amended ASC 810-10, *Consolidations*, to exclude sales of in-substance real estate, even if the transaction involves a business.

We acknowledge that defining in-substance real estate is beyond the scope of the proposed ASU and that addressing this issue in the context of this project may have implications for other GAAP, such as ASC 805, *Business Combinations*.

Disclosures

We feel that the proposed ASU should address whether the variable interest entity disclosures in ASC 810-10-50 apply when the reporting entity ceases to have a controlling financial interest in a subsidiary that is in-substance real estate. More specifically, the proposed ASU concludes that the debtor should not derecognize the in-substance real estate entity simply as a result of applying the guidance in ASC 810-10. However, the amendments to ASC 810-10 do not address the disclosure implications. As a result, it is unclear whether the debtor would (1) provide the variable interest entity disclosures required for a primary beneficiary (since the debtor is essentially being required to continue consolidation of the subsidiary), (2) provide the variable interest entity disclosures required for a non-primary beneficiary holder of a variable interest in a variable interest entity (since the debtor no longer has a controlling financial interest), or (3) not provide any variable interest entity disclosures.

Guidance for creditors

We acknowledge the Task Force's view that the accounting by creditors (and not just by financial intuitions) is a separate issue, and we understand the reasons why the Task Force has decided not to address it within the context of this issue. However, we note that similar issues, concerns, and diversity in practice exist for creditors. For example, questions have arisen as to whether certain powers obtained as a result of a default would result in a creditor being considered the primary beneficiary.

We believe that there is a significant need for clarity in guidance for creditors due to the volume of defaults and troubled debt restructurings currently occurring and to the expected increase in commercial real estate troubled debt restructurings forecasted by some industry observers.

We are also concerned that addressing this issue only from the debtor side, could create asymmetry between the debtor and creditor. In other words, this proposed ASU would require a debtor to consider asset- and liability-level guidance, while it is unclear whether a creditor would only consider the consolidation literature. As a result, creditors may only look towards the consolidation literature if it obtains a controlling financial interest. However, when the default is cured and the creditor no longer has a controlling financial interest, it is unclear if the creditor would need to consider ASC 360-20 by analogy. Further, we observe that some have asserted that a creditor's application of just the consolidation literature would result in the

creditor accounting for the restructured loan as a new loan (once modified) and therefore outside the scope of the troubled debt restructuring literature. We are concerned that this will reduce transparency in financial reporting, since these transactions would not be reported as troubled debt restructurings and not include the related disclosures for troubled debt restructurings.

We believe a broad principle should be established that provides guidance to both debtors and creditors.

Responses to the Board's specific questions in the proposed Update

Question 1: Do you agree that the scope of this proposed Update should be limited to a reporting entity's loss of control (as described in Subtopic 810-10) of a subsidiary that is in substance real estate when that loss of control is a result of the subsidiary defaulting on its nonrecourse debt? If not, what other situations have arisen in practice that the Task Force should consider?

We believe that the scope of the proposed Update is too narrowly defined. In our view, the final ASU should simply indicate that in evaluating whether to derecognize real estate in an entity that is in-substance real estate, the reporting entity should consider the applicable asset- and liability-level guidance. This would be consistent with the Board's previous decision in ASU 2010-02 to exclude sales of in-substance real estate from the scope of ASC 810, even when the entity meets the definition of a business.

We believe that there may be other situations where there is a loss of control that is not the result of a sale or default. For example, this would be the case if the debtor transfers to the creditor some or all of the shares of stock in the in-substance real estate entity in partial satisfaction of a debt restructuring, such that the debtor ceases to have a controlling financial interest. Such transfer may be made in anticipation of a default. We note that such a transaction would be covered by ASC 470-60, as ASC 470-60 would apply if the debtor issues or otherwise grants an equity interest to a creditor to fully or partially settle a payable.

Further, we do not believe that this issue should be limited to nonrecourse debt and note that in many situations, the owners of the parent may provide individual guarantees. Based on the current scope of the proposed ASU, these transactions appear to be scoped out. We are unclear why such transactions would be scoped out because, in our view, such guarantee would not change the application of ASC 810-10. Alternatively, this may suggest that the final ASU would need to define what is meant by "nonrecourse debt."

Question 2: Do you agree that a reporting entity that ceases to have a controlling financial interest (as described in Subtopic 810-10) in a subsidiary that is in substance real estate because of a default by the subsidiary on its nonrecourse debt should apply the guidance in Subtopic 360-20 to determine whether it should derecognize the assets (including real estate) and liabilities (including the related nonrecourse debt) of the subsidiary?

No. We believe that a debtor should apply the guidance in ASC 470-60 rather than the sales criteria in ASC 360-20. ASC 470-60 defines when a debtor should derecognize assets transferred in full or partial satisfaction of debt. More specifically, ASC 470-60-35-2 notes that “a debtor that transfers its receivables from third parties, real estate, or other assets to a creditor to settle fully a payable shall recognize a gain on restructuring of payables.” We believe that the proposed ASU should focus on whether the debtor can extinguish the debt, and not on whether the debtor can derecognize the asset. ASC 470-60 provides guidance as to when it is appropriate for the debtor to derecognize debt and related assets transferred in full or partial satisfaction of such debt.

We believe that an approach that looks toward existing troubled debt restructuring guidance has the following advantages:

- It is consistent with how a debtor would evaluate whether to derecognize real estate that is not in an entity to satisfy a debt payable.
- It would provide guidance to the debtor when such transfer of real estate only partially settles the debt, as ASC 470-60 already addresses that issue. Partial satisfaction of debt appears to be left open in ASC 360-20-55-73.
- It would likely eliminate the need to narrowly define the scope of this proposed ASU to when the debtor defaults and the debt is nonrecourse.
- It would clarify that the debtor would need to apply the disclosures in ASC 470-60-50.
- It would allow for a consistent basis in addressing this issue for both the debtor and creditor

In addition, based on the proposed amendment in ASC 810-10-40-3B, it would appear that a parent that ceases to have a controlling financial interest in a subsidiary that is in-substance real estate would never deconsolidate such subsidiary, even if it meets the criteria in ASC 360-20. We believe that the Task Force should clarify the deconsolidation guidance. For example, one approach to resolving this concern is to specify that the debtor would deconsolidate the subsidiary after meeting the criteria in ASC 810 and ASC 360-20 (or ASC 470-60, as we proposed). Alternatively, once the real estate meets the criteria in ASC 360-20, it could be concluded that the entity is no longer in-substance real estate and that ASC 810 would therefore be applicable.

We further believe that in determining the gain or loss to be recognized, the debtor would first look toward ASC 360-20 (or ASC 470-60) and then to the deconsolidation literature for the other assets/liabilities. We believe that this interaction should be addressed in the final ASU.

Question 3: Should additional guidance on applying the guidance in Subtopic 360-20 to transactions within the scope of this proposed Update be provided? If yes, under what circumstances?

Refer to our response to Question 2.

Question 4: Do you agree that the amendments in this proposed Update should be applied prospectively? If not, why not?

Yes, we agree that the amendments in this proposed Update should be applied prospectively.

Question 5: Should an entity be permitted to early adopt the amendments in this proposed Update?

Yes, we believe that early adoption should be permitted.

Question 6: How much time would be necessary for you to efficiently implement the provisions of this proposed Update?

We do not believe much time is necessary to efficiently implement the provisions of this proposed Update, provided that the transition is prospective. However, we believe that the Task Force should consider the date when the ASU will be issued in final form and the differences that the Board has previously considered in relation to the environments in which public and nonpublic companies operate.

Other comments

We note that the summary should be reviewed for consistency with the rest of the document. For example, the section on “Who would be affected by the amendments in this proposed update” is broader than the scope proposed in ASC 360-20-15-3(f).

We would be pleased to discuss our comments with you. If you have any questions, please contact John Hepp, Partner, Accounting Principles Consulting Group, at 312.602.8050 or John.Heppt@us.gt.com; or Jamie Mayer, Managing Director, Accounting Principles Consulting Group, at 312.602.8766 or Jamie.Mayer@us.gt.com.

Sincerely,

/s/ Grant Thornton LLP