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February 10, 2012

Ms. Leslie F. Seidman
Chairman
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

RE: (File Reference No. 2011-220)
Consolidation (Topic 810), Principal vs. Agent Analysis

Dear Ms. Seidman:

Erie Indemnity Company (“Erie Indemnity”) appreciates the opportunity to comment on the Proposed Accounting Standards Update (“proposed ASU”), *Consolidation (Topic 810), Principal versus Agent Analysis*.

Erie Indemnity is a publicly held corporation that since 1925 has been the managing attorney-in-fact for the subscribers of Erie Insurance Exchange (“the Exchange”), a subscriber owned reciprocal insurer that writes property & casualty insurance in 11 states and the District of Columbia. Under Accounting Standards Codification (“ASC”) 810, *Consolidation*, the operations of the Exchange and its subsidiaries are consolidated into the financial statements of Erie Indemnity. The consolidated operations of Erie Indemnity generated over \$4 billion in total revenues each of the past two years and includes an asset portfolio in excess of \$14 billion.

Under current ASC 810 guidance, Erie Indemnity holds a variable interest in the Exchange because of the significance of fees paid by the Exchange to Erie Indemnity as its decision maker and the relevance of these fees to the economic performance of the Exchange. Erie Indemnity has a controlling financial interest (i.e. it is the primary beneficiary) because it has the decision-making ability through its attorney-in-fact arrangement and the right to receive benefits from the Exchange that could potentially be significant.

The proposed ASU states that the holders of the equity investment at risk may delegate this power to a decision maker that is an agent of the equity holders. In such situations, the decision maker shall not prevent the holders of the equity investment at risk from having decision-making authority if the decision maker is determined to be an agent of the equity holders. The principal vs. agent analysis outlined in the proposed ASU requires a reporting entity to assess whether the entity’s decision maker is a principal or an agent and describes the specific factors that should be considered when determining whether the decision maker is using its decision-making authority in a principal or agent capacity. As a result, the principal vs. agent analysis requirement in the proposed ASU could potentially affect Erie Indemnity’s conclusion to consolidate the Exchange as a variable interest entity.

We understand from the background information in the proposed ASU that the primary intent of these proposed changes is to provide additional considerations for investment managers so that the deferral provided in ASU 2010-10, *Consolidation (Topic 810): Amendments for Certain Investment Funds* will no

longer be necessary. However, we respectfully request that the FASB consider the circumstances of other entities, such as reciprocal insurance exchanges, which may have similar manager (attorney-in-fact)/entity structures, for which the purpose and intent of the guidance may be applied.

The primary purpose and design of attorney-in-fact managers and investment managers are very similar. However, the current language in the proposed ASU regarding the magnitude and variability of the compensation (management fee) places emphasis on the magnitude of the fee without consideration for its components. We believe this is contradictory to the purpose and design of an attorney-in-fact arrangement in which the magnitude of the fee is significant, but in actuality substantially represents a recovery of costs for services provided. To provide further clarification, we recommend that the proposed guidance in the compensation factor be expanded to consider these circumstances.

Our response to Question 2 and proposed amendment are included in Appendix A. With the proposed change, reporting entities that act as attorney-in-facts for reciprocal insurers can perform assessments of their roles as principal or agent for the reciprocal insurer that more appropriately consider the design and purpose of the entity, including the risks that the entity was designed to create and pass through to its variable interest holders.

We welcome the opportunity to further discuss our comments in this letter. If you have any questions or would like any additional information regarding our comments, please do not hesitate to contact me at (814) 870-7186.

Sincerely,



Marcia A. Dall
Executive Vice President and Chief Financial Officer
Erie Indemnity Company

Appendix A

Question 2: The evaluation of a decision maker's capacity would consider the following factors:

- a. The rights held by other parties**
- b. The compensation to which the decision maker is entitled in accordance with its compensation agreement(s)**
- c. The decision maker's exposure to variability of returns from other interests that it holds in the entity.**

Are the proposed factors for assessing whether a decision maker is a principal or an agent appropriate and operational? If not, why? Are there any other factors that the Board should consider including in this analysis?

We agree with the three factors listed above as being the appropriate factors to consider in determining the capacity of the decision maker as principal or agent. Further, we agree that the qualitative assessment approach in the proposed ASU is operational. We understand from the background information in the proposed ASU that the primary intent of these proposed changes is to provide additional considerations for investment managers so that the deferral provided in ASU 2010-10, *Consolidation (Topic 810): Amendments for Certain Investment Funds* will no longer be necessary. However, we would respectfully request that the FASB consider the circumstances of other entities, such as reciprocal insurance exchanges, which may have similar manager (attorney-in-fact)/entity structures, for which the purpose and intent of the guidance may also be applied.

Although the primary purpose and design of attorney-in-fact managers and investment managers are very similar, the current language in the proposed ASU regarding the magnitude of the compensation (management fee) places emphasis on the magnitude of the fee without consideration of its components. We believe this is contradictory to the purpose and design of an attorney-in-fact arrangement, in which the magnitude of the fee is significant, but in actuality substantially represents a recovery of costs for services provided. To provide further clarification, we recommend that the proposed guidance in the compensation factor be expanded to consider these circumstances.

The management fee for an attorney-in-fact of a reciprocal insurer substantially represents a recovery of expenses incurred by the attorney-in-fact to recruit and retain policyholders of the insurer. Only the portion of the management fee retained by the attorney-in-fact in excess of actual costs incurred represents the attorney-in-fact's rights to benefits from the insurer. In this situation, the management fee is significant to the insurer primarily due to the inclusion of the recovery of costs.

Per review of paragraphs 810-10-25-39I – 810-10-25-40J of the proposed ASU, an attorney-in-fact for a reciprocal insurer meets the criteria for acting in an agent capacity for the reciprocal when considering the compensation of the decision maker as well as the purpose and design of the entity, with the sole exception of the magnitude of the management fee. The management fee in an attorney-in-fact arrangement for a reciprocal insurer includes a recovery of costs paid by the attorney-in-fact on behalf of the reciprocal insurer. An attorney-in-fact acting as an agent for a reciprocal insurer, similar to an investment manager, functions in an agent capacity for its principal (the policyholders of the reciprocal insurer) considering the following characteristics in the purpose and design of the attorney-in-fact role:

- A fiduciary duty to act in the best interests of the subscribers/policyholders of the reciprocal insurer;
- No obligation to absorb losses of the reciprocal insurer;
- No rights to receive the benefits of the reciprocal insurer, other than through its market-based fee arrangement; and
- No obligation to provide financial support to the reciprocal insurer

The primary difference between an investment manager and the attorney-in-fact for a reciprocal insurer is that the attorney-in-fact for a reciprocal insurer provides services such as sales, underwriting, and policy acquisition services for the insurer which are subsequently recovered in the management fee. This results in a management fee that is “grossed up” to include funding expenditures such as agent commissions, underwriting services, billing and other policy acquisition services, which are expenses that do not occur in the normal course of business of investment managers. Since the benefits to the attorney-in-fact are in actuality the management fee less the actual costs incurred, the result is a net benefit that is significantly less than the gross management fee. For attorney-in-fact/reciprocal insurer arrangements, we believe the comparability of the management fee to the costs for similar services incurred by other insurers should be given more consideration than the magnitude of the gross management fee.

In order to provide reciprocal insurance entities with comparable principal vs. agent analysis guidance, we respectfully propose that paragraph 810-10-25-39J be amended to add the following sentence at the end of the paragraph:

If no other interests in the entity exist (other than the compensation arrangement) and the magnitude of the compensation is the result of costs paid by the decision maker which are subsequently recovered through the compensation arrangement, then a market commensurate rate for services should be presumptive that the decision maker is an agent, regardless of the magnitude of the fee.