

Technical Director
Financial Accounting Standards Board
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February 15, 2012

Re: File Reference No. 2011-200

Duff & Phelps Corporation (NYSE: DUF) appreciates the opportunity to provide comments on the Exposure Draft of the proposed Accounting Standards Update related to Topic 946 – Financial Services – Investment Companies.

We would be pleased to further discuss our comments with the Board and staff. Please direct any questions to David Larsen at (415) 693-5330.

Sincerely,

David L. Larsen, CPA Managing Director

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OVERALL COMMENTS

General D&P comment: Having separate accounting guidance on investment companies and investment property entities, the primary difference for which is based on the portfolios of assets held and the returns sought, creates undue complexity. We recognize that the following factors may have contributed to the development of two separate models for "investment entities" (broadly speaking):

- Existing accounting guidance that has been in place in U.S. GAAP on investment companies
- The lack of such equivalent guidance in IFRS in the past
- The joint Leases project the Boards undertook
- Its proposed scope-out of lessors of investment property, and
- The existence of investment property guidance in IFRS.

However, we believe that there should be one standard for "investment entities" that does not distinguish between investment companies and investment property entities. Both share the principle that the entity buys, manages and may sell investments with the broad objective of realizing an investment return. The fact that an entity can fall into either the investment company or the investment property guidance, or out of one but into the other, or possibly be excluded from both, is another sign that artificial lines of distinction have been created between the two.

Investors in investment entities generally are required to report their investments at fair value, and/or use fair value in decision making. In developing the criteria to be used to describe these investment entities, the focus should be on the needs of the investor, and whether fair value reporting would be relevant to the investor. Therefore, we believe that investment entities should report all of their investments at fair value.

In the same spirit, the guidance needs to be less restrictive about other activities that an investment entity might perform, which may include some degree of management services related to the investments. Absent this, the exclusion of such activities may lead to very limiting interpretations that may scope out entities for which investors may seek and require fair value information¹.

As is the case with other areas of financial reporting, the accounting treatment of the assets and liabilities of an entity should reflect its business model. Thus, if the entity's business model is to generate investment returns for investors, allowing for other activities in support of this mission, and the investors need fair value reporting, then this entity should be reporting at fair value as an "investment entity". We urge the Board to consider this approach both in the interest of developing principles-based guidance and simplifying reporting requirements.

¹ For example, investments in office properties for which some building management services are required.

Our comments below are subject to the foregoing position.

RESPONSES TO SPECIFIC QUESTIONS

Question 1: The proposed amendments would require an entity to meet all six of the criteria in paragraph 946-10-15-2 to qualify as an investment company. Should an entity be required to meet all six criteria, and do the criteria appropriately identify those entities that should be within the scope of Topic 946 for investment companies? If not, what changes or additional criteria would you propose and why?

D&P response:

The Alternative Asset Industry is continually changing. This is not an industry where one size fits all. Therefore, we do not believe that the criteria articulated in the exposure draft provide sufficient flexibility to encompass the full spectrum of existing and future investment entities. We recommend that FASB and the IASB provide a principles-based approach and not be driven by specific rules as currently articulated in the exposure draft. Predominant evidence should define an investment company (including investment property entities), rather than specific check-the-box rules. We recommend that *an investment entity* be defined as an entity that to a large extent meets the majority of the following criteria (we have provided some suggested wording changes to the current proposal):

- a. The entity's only substantive activities are investing in multiple investments for capital appreciation, investment income (such as dividends or interest), or both.
- b. The entity makes an explicit commitment to a group of investors one or more investors that the entity's purpose is investing to earn capital appreciation, investment income (such as dividends or interest), or both. [The definition should not exclude "managed accounts" which are increasingly being used by Investors. An investment entity should also include situations where there is a single investor.]
- c. Ownership in the entity is represented by units of investments, such as shares or partnership interests, to which proportionate shares of net assets are attributed.
- d. The funds of an entity's investor or investors are pooled in a single vehicle or account, or related vehicles so that the investor or investors can benefit from professional investment management. The entity has an investor or investors that are unrelated to the parent or investment manager (if any). and collectively hold a significant ownership interest in the entity.
- e. Substantially all of the investments of the entity are managed monitored, and their performance is evaluated, on a fair value basis.
- f. The entity provides financial information about its investment activities to its investor or investors. The entity can be, but does not need to be, a legal entity.

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We believe that an investment entity is recognizable when it is encountered, but is not always easily defined using the check-the-box criteria used in the exposure draft. Therefore investment entities that substantially meet the majority of the characteristics above, but in addition, whose investor or investors generally report their investment in the investment entity or managed account at fair value, should report such investments at fair value and not be required or allowed to consolidate underlying investments.

Service related subsidiaries may deserve alternative treatment based upon the source of their funding. To the extent that investor funds are specifically used to acquire the interest in such a subsidiary then, because investors in an investment entity need fair value information, we do not believe that it is preferable for an investment entity to consolidate a service related subsidiary. Alternatively, if the management company (or fund advisor) rather than investors acquired the subsidiary interest then consolidation would be preferable. The question is somewhat moot as the service subsidiary would likely be part of the management company.

Further, we do not believe that a distinction should be made between investment companies and investment property entities, as both entities invest in various assets to generate an investment return for investors. The needs of the investor should be considered in determining fair value reporting needs, rather than focusing on the types of assets held in the portfolio or on the types of investment returns that are generated.

Question 2: The definition of an investment company in the proposed amendments includes entities that are regulated under the SEC's Investment Company Act of 1940. Are you aware of any entities that are investment companies under U.S. regulatory requirements that would not meet all of the proposed criteria in paragraph 946-10-15-2? If so, please identify those types of entities and which of the criteria they would not meet.

D&P response:

We agree with the proposal to ensure consistency with SEC rules. We are not aware of entities that are investment companies under U.S. regulatory requirements that would not meet the proposed criteria as adjusted in 1 above.

Question 3: The proposed amendments would remove the scope exception in Topic 946 for real estate investment trusts. Instead, a real estate investment trust that meets the criteria to be an investment property entity under the proposed Update on investment property entities would be excluded from the scope of Topic 946. Do you agree that the scope exception in Topic 946 for real estate investment trusts should be removed? In addition, do the amendments in the proposed Updates on investment companies and investment property entities appropriately identify the population of real estate entities that should be investment companies and investment property entities?

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D&P response:

As noted above and in our response to the Investment Property Entities ED, we do not believe that there should be separate GAAP for investment property entities. We agree that a real estate investment trust and other investment property entities should be included in the scope of the investment company proposal (or broadly, in a proposal on "investment entities") and should report underlying investments at fair value.

Question 4: The proposed amendments would require an entity to reassess whether it is as an investment company if there is a change in the purpose and design of the entity. Is this proposed requirement appropriate and operational? If not, why?

D&P response:

We believe that the situation described would occur very rarely, if ever. Reassessment in such limited cases should be operational.

Question 5: An entity may be an investment company when it performs activities that support its investing activities. As a result, a real estate fund or real estate investment trust (that is not an investment property entity) could be an investment company if the entity (directly or indirectly through an agent) manages only its own properties. However, the entity would be precluded from being an investment company if the other activities were considered more than supporting the entity's investment activities (for example, construction). Is this requirement operational, and could it be consistently applied?

D&P response:

As noted above, we believe there should be one standard for all investment entities. Having one standard simplifies application and improves operationality.

Also, the guidance needs to be less restrictive about other activities that an investment entity might perform, which may include some degree of management or other services related to the investments; otherwise, the exclusion of such activities may lead to very limiting interpretations that may scope out entities for which investors may seek fair value information.

Question 6: The proposed implementation guidance includes examples of relationships or activities that would indicate that an entity obtains or has the objective of obtaining returns from its investments that are not capital appreciation or investment income. Do you agree with these examples? If not, how would you modify the examples while still addressing the Board's concerns identified in paragraphs BC15 and BC16?

D&P response:

We believe the examples provided are too restrictive and will be read literally, and therefore the proposal is too narrow. The proposal focuses too much on rules and does not rely on principles. Instead of focusing on capital appreciation or investment income, we believe an investment company should be defined as an entity where the broad objective is to obtain an investment return for investors.

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We understand the concerns outlined in BC15 and BC16. However, the modified criteria that define an investment company (including investment property entity) suggested above, provide sufficient clarity to exclude those situations which are of concern to the board. From a principles perspective, it should be clear from the organizational and investment criteria of an entity whether or not it is an investment company. The third party investor criteria combined with the expectation of an investment return will generally ensure that the principles are applied appropriately.

Question 7: To be an investment company, the proposed amendments would require an entity to have investors that are not related to the entity's parent (if there is a parent) and those investors, in aggregate, must hold a significant ownership interest in the entity. Is this criterion appropriate? If not, why?

D&P response:

Yes, though a single investor should also qualify. Increasingly investors are using a "managed account" strategy with an investment manager. An investment manager may manage several "funds" which include multiple unrelated investors. The investment manager may also manage an "account" for an individual unrelated investor. When the investment manager makes a decision to invest in an underlying portfolio company, the manager may use capital from either the managed account or the fund or both. Both the investors in the fund and the investor in the managed account need fair value information, not consolidated information.

Question 8: The proposed unit-ownership criterion would require an entity to have ownership interests in the form of equity or partnership interests to be an investment company. The entity would consider only those interests in determining whether it meets the proposed pooling-of-funds criterion. Therefore, a securitization vehicle, such as a collateralized debt obligation, may not qualify as an investment company under the proposed amendments because it may not meet the unit-ownership or the pooling-of-funds criterion. The entity would not consider interests held by its debt holders when evaluating these criteria to be an investment company. For entities that do not have substantive equity interests (for example, those considered variable interest entities under Subtopic 810-10), should the unit-ownership and pooling-of-funds criteria to be an investment company consider interests held by debt holders? Please explain.

D&P response:

We agree that interests held by debt holders should not factor into the determination of whether or not an entity is an investment company as we believe this would create a layer of complexity that is not necessary or helpful. Securitized vehicles have not typically been considered investment companies. Further, as noted in our response to Question 7, we believe that an investment company could have a single third party investor.

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Question 9: Certain entities may meet all of the other criteria to be an investment company but has only a single investor (for example, a pension plan). The amendments in FASB's proposed Update on investment property entities provides that if the parent of an entity is required to measure its investments at fair value under U.S. GAAP or the parent entity is a not-for-profit entity under Topic 958 that measures its investments at fair value, the entity would not need to meet the unit-ownership and pooling-of-funds criteria to be an investment property entity. Considering the Board's concerns identified in paragraph BC24, should the criteria in this proposed Update be amended to address situations in which the entity has a single investor?

D&P response:

We strongly agree. As described above, increasingly investors are using a "managed account" strategy with an investment manager. An investment manager may manage several "funds" which include multiple unrelated investors. The investment manager may also manage an "account" for an individual unrelated investor. When the investment manager makes a decision to invest in an underlying portfolio company, the manager may use capital from either the managed account or the fund or both. Both the investors in the fund and the investor in the managed account need fair value information, not consolidated information.

The investor needs fair value information and will report its interest in the managed account at fair value.

Question 10: The unit-ownership and pooling-of-funds criteria in the proposed amendments do not consider the nature of the entity's investors for evaluating if an entity is an investment company. That is, the criteria do not differentiate between passive investors and other types of investors. Do you agree that the nature of the investors should not be considered in evaluating the unit-ownership and pooling-of-funds criteria?

D&P response:

No, we disagree. We believe the nature of the investors should be a component in evaluating whether or not an entity is an investment company. Investors in an investment entity that report their investments at fair value need fair value information from the investment entity. Therefore, the nature and needs of the investor should be a critical component in assessing whether or not an entity is an investment company. The Board's concerns in BC 15 and BC 16 can be further mitigated if the nature of the investor was added as a criterion in assessing whether or not an entity is an investment company. Also, we do not believe that it is preferable for an investment entity with a single investor to consolidate underlying investments as would be implicitly required under the proposal. Such information would not be useful to the investor.

Question 11: The proposed amendments would require that substantially all of an investment company's investments are managed, and their performance evaluated, on a fair value basis. Do you agree with this proposal? If not, why? Is this proposed amendment operational and could it be consistently applied? If not, why?

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D&P response:

We agree with the principle espoused that substantially all investments are managed on a fair value basis, but we are concerned that the words used may be misunderstood and misapplied. While this may purely be semantics, the amendment must be clear in its intent and wording.

For example, venture capital funds have a long history of investing in early stage companies for capital appreciation. The "deal" professionals at the venture capital fund meet regularly, often weekly, to discuss the progress of individual portfolio company investments. They monitor progress and identify potential needs, and expectations for the future. They monitor value and determine next steps. However, if you ask these deal professions "do they manage the investments on a fair value basis" they would almost uniformly say "No." This is because they do not think in accounting terms; they think and speak in "deal" terms.

Because of this difference in language between deal professionals and accounting professionals, the proposed amendment needs to use words which say and mean the same thing to all parties. Using the word "monitor" rather than "manage" partially bridges the semantic gap.

Question 12: The proposed amendments would retain the requirement that an investment company should not consolidate or apply the equity method for an interest in an operating company unless the operating entity provides services to the investment company. However, the proposed amendments would require an investment company to consolidate controlling financial interests in another investment company in a fund-of-funds structure. An investment company would not consolidate controlling financial interests in a master-feeder structure. Do you agree with this proposed requirement for fund-of-funds structures? If not, what method of accounting should be applied and why? Should a feeder fund also consolidate a controlling financial interest in a master fund? Please explain.

D&P response:

No we do not agree, unless the investments of the consolidated sub (Investment Company) come over at fair value in consolidation. Investors need fair value information, not consolidated historical cost information. While it is generally unlikely that a fund-of-funds would control another investment company, if it did, the ultimate investors need fair value information, not consolidated information.

Question 13: The proposed amendments would require an investment company to consolidate a controlling financial interest in an investment property entity. Should an investment company be subject to the consolidation requirements for controlling financial interests in an investment property entity? If not, what method of accounting should be applied and why?

D&P response:

If the consolidated investment property entity is reporting at fair value we would agree, as this would also provide more transparency into the subsidiary's underlying investments. Investors

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need fair value information, not consolidated historical cost information. An investment company should report all investments, even investments in other investment companies, at fair value.

Question 14: The proposed amendments would prohibit an investment company from applying the equity method of accounting in Topic 323 to interests in other investment companies and investment property entities. Rather, such interests would be measured at fair value. Do you agree with this proposal? If not, why?

D&P response:

Yes we agree.

Question 15: An investment company with a controlling financial interest in a less-than-wholly-owned investment company subsidiary or an investment property entity subsidiary would exclude in its financial highlights amounts attributable to the noncontrolling interest. Do you agree that the amounts attributable to the noncontrolling interest should be excluded from the calculation of the financial highlights? If not, why?

D&P response:

Much of the required disclosure is not used by or meaningful to investors. The current disclosure requirements of topic 946 are sufficient.

Question 16: If an investment company consolidates an investment property entity, the proposed amendments require the investment company to disclose an additional expense ratio that excludes the effects of consolidating its investment property entity subsidiaries from the calculation. Do you agree? If not, why?

D&P response:

No we do not agree. Investors are generally interested in the entity in which they invest. It is unduly complicated and costly to report all underlying fees from underlying investments whether direct portfolio investments or investments in investment companies.

Question 17: Do you agree with the additional proposed disclosures for an investment company? If not, which disclosures do you disagree with, and why? Would you require any additional disclosures and why?

D&P response:

Most investors we work with generally agree that the current disclosures are excessive and are not useful. Therefore additional disclosures are also not needed.

Question 18: The proposed amendments would retain the current requirement in U.S. GAAP that a noninvestment company parent should retain the specialized accounting of an investment company subsidiary in consolidation. Do you agree that this requirement should be retained? If not, why?

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D&P response:

Yes, we agree that fair value accounting should be retained.

Question 19: An entity that no longer meets the criteria to be an investment company would apply the proposed amendments as a cumulative-effect adjustment to retained earnings as of the beginning of the period of adoption by calculating the carrying amounts of its investees as though it had always accounted for its investments in conformity with other applicable U.S. GAAP, unless it is not practicable. If not practicable, the entity would apply the proposed amendments as of the beginning of the period of adoption. Do you agree with this proposal? If not, why?

D&P response:

No comment

Question 20: How much time would be necessary to implement the proposed amendments?

D&P response:

For entities which currently report on a fair value basis as Investment Companies, there would be no time required for implementation. For entities, such as REITs, the initial implementation can occur quickly, however there will be a need to improve processes and controls for estimating fair value of underlying investments at each measurement date, which is often quarterly. Therefore, many such entities may need six to twelve months to design and implement such procedures.

Question 21: The proposed amendments would prohibit early adoption. Should early adoption be permitted? If yes, why?

D&P response:

Early adoption should be permitted and encouraged because investors need fair value information.

Question 22: The proposed amendments would apply to both public and nonpublic entities. Should the proposed amendments apply to nonpublic entities? If not, how should the proposed amendments differ for nonpublic entities and why?

D&P response:

Yes. Most investment companies are nonpublic entities. There should be no difference between public investment companies and nonpublic investment companies.