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Accounting for Transfers Ref. 1610-100 Due 11-14-08
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LETTER OF COMMENT NO.

42

Sir,

Enclosed are the comments on Ref. 1610-100

Summary: The Statement seeks to improve the relevance, representational faithfulness and comparability of transfers, eliminates SPE complexities in consolidation in accordance with GAAP, normalizes the costs of implementation, limits the portion of derecognition on a pro-rata basis for qualifying participating interests and clarifies the relationships in sales/borrowings.

Critique: Derivative transactions which are in the nature of "principal to principal" transfers may be reviewable by Courts. The parties on both sides of the transfer are deemed to have experts fully cognizant of derivative transactions and their implications unless specified differently in the agreement between the parties. Courts may reverse the risks inherent in derivative transactions based upon the "principal to principal" assumption.

Transfers of undivided interests in pools of financial assets may not be capable of a rational dis-aggregation while the transferor still controls the asset despite reporting the transaction as a sale.

An attorney cannot conclude with certainty that a transferred financial asset or assets have been sold and are beyond the reach of the transferor's creditors. pp.28 The words "reasonable basis" should be employed. In addition, the attorney's conclusion should be supported by a recent LEXIS reference or stare decisis, if obtainable. The attorney should be asked about the probability of a Court reversal of his/her conclusion.

Generally, the sale/leaseback accounting for transactions would provide historical clarity for classification and reporting purposes. The derecognition of assets was indicated correctly upon surrender of control. Derecognition of liabilities should occur upon extinguishment.

Changes in valuation inputs or assumptions used in valuation models should be subjected to scrutiny by the accountant. The scrutiny should be directed toward the parameters of the computer programs which direct automated or computer algorithmic decision-making with a minimum of human intervention. Examples of these programs are operations research cash management, the inventory problem, the assignment problem, oil drilling algorithms and provable reserves, as well as artificial intelligence in credit scoring and the experiential "advice giving" systems derived from expert knowledge bases of derivative transactions.

Dr. Joseph S. Maresca