

MINUTES



Financial Accounting
Standards Board

To: Board Members
From: Statement 140 and Interpretation 46(R)
Teams (Yust, ext. 442)
Subject: Minutes of the November 12, 2008
Board Meeting: Statement 140 and Interpretation 46(R) Disclosure FSP
Date: December 8, 2008
cc: FASB: Golden, Bielstein, Lott, Proestakes, Stoklosa, Donoghue, Mayer, Hood, Barker, Maroney, Roberge, Lusniak, Nickell, Inzano, Mathys, Yust, Sperry, Reager, C. Smith, Chookaszian, Posta, Gabriele, Glotzer, Mechanick, Cropsey, Wilkins, Allen, Klimek, FASB Intranet; IASB: Leisenring, Kusi-Yeboah, Teixeira

The Board meeting minutes are provided for the information and convenience of constituents who want to follow the Board's deliberations. All of the conclusions reported are tentative and may be changed at future Board meetings. Decisions become final only after a formal written ballot to issue a final Statement, Interpretation, or FASB Staff Position.

Topic: Statement 140 and Interpretation 46(R) Disclosure FSP

Basis for Discussion: Board Memorandum Nos. 103–104 and 106 and Related Appendices

Length of Discussion: 8:00 a.m. to 10:30 a.m.

Attendance:

Board members present: Herz, Linsmeier, Seidman, Siegel, and L. Smith

Board members absent: None

Other participants: Leisenring (IASB)

Staff in charge of topic: Mayer, Hood, Donoghue

Other staff at Board table: Golden, Stoklosa, Roberge, Nickell, C. Smith, Sperry, and Yust

Summary of Decisions Reached

The Board discussed the issues identified during the comment period of the proposed FSP FAS 140-e and FIN 46(R)-e, *Disclosures about Transfers of Financial Assets and Interests in Variable Interest Entities*. The Board directed the staff to proceed to a draft of a final FSP for vote by written ballot.

General Comments

Issue 1—Rules versus Principles-Based Disclosures

The Board decided to maintain both the disclosure principles and the detailed disclosure requirements. The Board asked the staff to draft the final FSP in a way that emphasizes the disclosure principles and clarifies the intent of the specific disclosure requirements.

Issue 2—Consideration of Implicit Arrangements

The Board decided to modify the requirement to disclose implicit arrangements. For the Statement 140 disclosure requirements in the FSP, the Board decided to require the consideration of all available evidence, including, but not limited to, explicit written arrangements, communications made between the transferor and the transferee or its beneficial interest holders, and unwritten arrangements customary in similar transfers.

For the Interpretation 46(R) disclosure requirements in the FSP, the Board decided to clarify that the term *implicit arrangements* in the FSP is consistent with the definition of implicit variable interests in FSP FIN 46(R)-5, *Implicit Variable Interests under FASB Interpretation No. 46 (revised December 2003)*.

Issue 3—Aggregation Principle

The Board decided to change the proposed requirement that an entity report aggregated information for similar transfers and similar entities if further disaggregating the disclosure would not provide *useful incremental information*. The Board decided to change the wording from *useful incremental information* to *more useful information* and to clarify in the basis for conclusions that it is not intended to be a lower threshold than materiality.

Issue 4—Liquidity Guarantees and Other Commitments Provided by Third Parties

The Board decided to encourage, rather than require, that an entity disclose liquidity guarantees and other commitments made by third parties. The Board noted that such disclosures would likely be made voluntarily if the data are available, because an entity may be motivated to disclose the third-party guarantees as a reduction of its own risks.

Issue 5—Examples

The Board decided not to provide specific examples in the FSP. The Board directed the staff to incorporate, at appropriate places within the FSP, the disclosure objective into the specific disclosure requirements or to provide further guidance as necessary. Additionally, the Board decided to include a reference to the April 2008 Senior Supervisors Group Report, *Leading-Practice Disclosures for Selected Exposures*, within the basis for conclusions, as one potential source a preparer can look to for examples.

Issue 6—International Convergence

The Board decided that the project should proceed and should not be delayed. The Board affirmed its decision to continue to work with the IASB in completing long-term joint projects regarding these issues.

Comments Specific to Statement 140 Disclosures

Issue 7—Scope of the Disclosures Required of Transferors That Have Continuing Involvement

The Board decided to require certain disclosures when a transferor has a continuing involvement without a threshold for significance. The Board also decided to provide a broad principle that would indicate that the level of disclosures necessary to meet the objectives of the FSP will be different depending on the facts and circumstances related to the continuing involvement.

Issue 8—Exclusion of Certain Derivatives from the Definition of Continuing Involvement

The Board decided to clarify which specific disclosures are required when a transferor has continuing involvement in a securitization or structured financing arrangement accounted for as a sale and the particular form of continuing involvement would already be disclosed to comply with other U.S. GAAP disclosure requirements. The Board decided that if the transferor's form of continuing involvement is already disclosed to comply with other U.S. GAAP, the entity should provide sufficient information with the disclosures of FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*, to enable financial statement users to assess the reasons for the continuing involvement and the related risks to which the transferor continues to be exposed after the transfer. The Board also decided that if those disclosures meet the principles of the disclosures required by the final FSP, completion of specific related disclosures in the FSP would not be required.

The Board also decided that if information about the continuing involvement is provided in more than one note to the financial statements, the entity should provide a cross reference between the separate notes to the financial statements to allow a financial statement user to understand the risks retained in the transfer.

Issue 9—Fair Value Disclosures in Statement 140

The Board decided to eliminate the disclosures about transfers of financial assets that are duplicative with the disclosures of FASB Statement No. 157, *Fair Value Measurements*, and to also eliminate the requirement to disclose model validation techniques for servicing assets and liabilities because it is not required by Statement 157.

Issue 10—Sensitivity Analysis

The Board decided to maintain the existing disclosure requirement that the sensitivity analysis disclosures would only be required for interests that continue to be held by a transferor and for servicing assets and servicing liabilities.

Issue 11—Disclosures for Secured Borrowings

The Board decided to limit the required disclosures for transfers accounted for as secured borrowings to the carrying amount and classification of assets and associated liabilities

recognized in the transferor's statement of financial position, and qualitative information about the relationships between those assets and associated liabilities.

The Board directed the staff to reorganize the disclosure requirements.

Issue 12—Transfers to a Special-Purpose Entity

The Board decided to modify the scope of the disclosure requirements from *financial assets transferred to a special-purpose entity* to *entities whose activities are primarily related to securitization or other forms of asset-backed financings*.

Issue 13—Gain on Sale Disclosures

The Board decided to retain the existing guidance in Statement 140 to disclose the total gain or loss from sales of financial assets. The Board also decided to require disclosure of the characteristics of the transfer and a description of the transferor's continuing involvement with the transferred financial assets.

Issue 14—Disclosures for a Transferor That Has No Continuing Involvement

The Board decided that the disclosure requirements would not apply when a transferor does not have any continuing involvement with the transferred financial assets.

Issue 15—Disclosures Applicable to Guaranteed Mortgage Securitizations

The Board decided not to indicate whether the disclosures specific to Statement 140 apply to guaranteed mortgage securitizations.

Comments Specific to Interpretation 46(R) Disclosures

Issue 16—Level of Disclosures for Consolidated Variable Interest Entities

The Board decided not to remove the proposed disclosures for primary beneficiaries, other than the disclosure to separately provide the fair value of a consolidated variable interest entity's assets and liabilities.

Issue 17—Sponsors

The Board decided not to define the term *sponsor*.

Issue 18—Methodology for Determining Whether the Enterprise Is (or Is Not) the Primary Beneficiary

The Board decided to clarify the disclosure requirement to explain its methodology for identifying the primary beneficiary of a variable interest entity, including significant factors, assumptions, and judgments made in determining the primary beneficiary of a variable interest entity. The Board also decided to remove the proposed requirement to disclose whether a different assumption or judgment could have reasonably been made that would result in a different conclusion.

Issue 19— Disclosure of an Enterprise's Estimated Exposure to Loss

The Board decided to replace the proposed requirement to disclose estimated exposure to loss with a requirement to provide a tabular, side-by-side comparison of the entity's maximum exposure to loss with the liability recognized in its financial statements. The Board also decided that an entity should supplement that tabular comparison with

qualitative and quantitative information to explain the differences between the two amounts.

Issue 20—Scope Exception for Primary Beneficiaries That Also Hold a Majority Voting Interest

The Board decided to keep the scope exception as it currently exists in Interpretation 46(R), clarifying that the scope exception applies if the activities of the variable interest entity are not primarily related to securitization or other forms of asset-backed financings or single-lessee leasing arrangements. The Board noted that the change proposed in the proposed FSP would require an entity to evaluate all subsidiaries to determine if they meet the definition of a variable interest entity and whether that entity meets the definition of a business. The Board believes this may create an undue burden on a reporting entity because an entity generally does not evaluate whether a consolidated entity is a variable interest entity if the consolidating entity concludes it must be consolidated pursuant to voting interests or arrangements, regardless of the sufficiency of the related entity's equity.

Issue 21 —Significant to the Variable Interest Entity or Reporting Enterprise

The Board decided not to clarify whether the determination of the significance of a variable interest entity should be considered as significant in relation to the variable interest entity or the reporting enterprise.

Comments Specific to Nontransferor Disclosures

Issue 22—Scope of Nontransferor Disclosures

The Board decided to modify the scope of the proposed disclosure requirements for nontransferors with a significant variable interest in a qualifying special-purpose entity, such that entities that are sponsors or servicers with a variable interest in a qualifying special-purpose entity will be required to make the proposed disclosures.

Effective Date and Transition

Issue 23 —Effective Date and Transition

The Board decided that the FSP will be effective for reporting periods ending after December 15, 2008, with earlier application of all or some disclosure requirements encouraged. The Board also decided to clarify that if the FSP is adopted in a period other than an annual reporting period, the FSP will apply to that initial interim period and each annual reporting period thereafter.

Objectives of Meeting:

The purpose of the meeting was to redeliberate the issues raised by respondents to the proposed FSP FAS 140-e and FIN 46(R)-e, *Disclosures about Transfers of Financial Assets and Interests in Variable Interest Entities*. The objective of the meeting was met.

Matters Discussed and Decisions Reached:

1. Mr. Hood stated that there were 31 respondents to the proposed FSP, most of which were supportive of improving disclosures for transfers of financial assets and interests in variable interest entities. Respondents generally agreed with the disclosure principles; however, several respondents stated that some of the specific disclosure requirements were too detailed or overly prescriptive.

General Comments

Issue 1: Rules vs. Principles-Based Disclosures

2. **Staff Recommendation:** The staff recommended drafting changes to the disclosure principles as well as modifications or deletions of certain specific disclosures, as further discussed individually in the meeting. However, the staff noted it was necessary to have a combination of principles and detailed disclosure requirements.
3. **Board Vote:** The Board unanimously voted to support the staff recommendation.
4. **Board Comments:** Mr. Herz noted that many of the specific disclosures in the FSP are already required by Statement 140 and Interpretation 46(R). Additionally, he stated that while he supported disclosure principles, history has shown that principles need to be accompanied by specific disclosure requirements as well.

Issue 2: Consideration of Implicit Arrangements

5. **Staff Recommendation:** The staff recommended removing the reference to implicit arrangements in the Statement 140 related disclosures in the FSP. The staff recommended clarifying that the use of the term *implicit* in Interpretation 46(R) related to disclosures in the FSP was consistent with implicit variable interests described in FSP FIN 46(R)-5.
6. **Board Vote:** For the Statement 140 disclosure requirements in the FSP, the Board unanimously voted to require a transferor to consider all available evidence, such as explicit written arrangements, communications made between the transferor and the transferee or its beneficial interest holders, and unwritten arrangements customary in similar transfers in disclosing the terms of any arrangements that *could* require the transferor to provide financial support. For the Interpretation 46(R) disclosure requirements in the FSP, the Board unanimously agreed with the staff recommendation.
7. **Board Comments:** Mr. Linsmeier stated that he disagreed with the staff recommendation regarding the Statement 140 disclosures in the FSP because users had stated that the identification and disclosure of implicit arrangements, such as reputation risk in the current market environment was of utmost importance. Rather than requiring disclosure of all implicit arrangements, he supported an alternative proposed by the staff whereby the transferor would be required to consider all available evidence, such as explicit written arrangements, communications made between the transferor and the transferee or its beneficial interest holders, and unwritten arrangements customary in similar transfers. He noted that this alternative would alleviate some of the problems of a requirement to disclose *all* implicit arrangements that could require the transferor to provide financial or other support.
8. Ms. Seidman agreed that users were concerned with implicit arrangements but questioned the operationality of a requirement to disclose implicit arrangements related to a transfer. Regarding the alternative proposed by the staff, she noted that the requirement would result in consideration of unwritten arrangements specific to

customary arrangements; however, *customary* arrangements in a transfer changed over time. She noted that the additional disclosures proposed in the FSP, along with some changes to the overarching disclosure principles, could help users to make their own assessments about whether implicit arrangements exist. However, Ms. Seidman stated that she would support the staff's alternative proposal, provided that external reviewers think it is operational.

9. Mr. Smith agreed that disclosing implicit arrangements may not be operational. He also stated that if businesses had been required to disclose implicit arrangements three years ago, those businesses likely would not have anticipated or disclosed the future continuing involvement that occurred. However, he noted that the alternative proposed by the staff was less broad than a requirement to disclose all implicit arrangements and addressed many of his concerns.
10. Mr. Golden questioned the difference between the staff's alternative proposal and the requirement to disclose implicit variable interests in the Interpretation 46(R) disclosures in the FSP. He stated that having differences between the thresholds for disclosing implicit arrangements in the Statement 140 and Interpretation 46(R) disclosures in the FSP may create complexity, and he questioned whether they should be the same. Ms. Seidman and Mr. Linsmeier concluded that it would be appropriate to have different thresholds for disclosing implicit arrangements because Statement 140 applies when a transferor has a sale of an individual asset, while Interpretation 46(R) applies when an enterprise is required to consolidate a variable interest entity.
11. Ms. Seidman questioned whether a transferor should be required to disclose the terms of any arrangements that *would* or *could* require the transferor to provide financial support. Ms. Donoghue questioned whether it would be operational to require a transferor to anticipate and disclose any possible situation that could occur that would require action by the transferor and questioned whether that was operational. However, Mr. Linsmeier stated that the use of the word *could* would

allow users to understand the events that could expose an enterprise to loss to allow them to assess the likelihood of such events.

12. Ms. Seidman questioned how the disclosures regarding unwritten arrangements could be audited. She also questioned whether a “wink and nod” arrangement would hold up in court. Mr. Golden stated that it would involve obtaining a management representation that such arrangements did or did not exist. Ms. Donoghue stated that many such arrangements could and had been held up in court, depending on the arrangement.
13. Mr. Smith questioned how the disclosure requirements would affect an enterprise that sold its receivables outright and did not retain any continuing involvement. Mr. Herz stated that the disclosures would not be applicable if any enterprise that did not have any unwritten arrangements or other communications related to the transfer that would require the transferor to provide financial support.
14. Mr. Golden stated that he agreed with the staff recommendation regarding the disclosures for implicit arrangements in the Interpretation 46(R) disclosures in the FSP because an enterprise is already required to consider implicit variable interests in applying the provisions of Interpretation 46(R). Additionally, he noted that Interpretation 46(R) only requires consideration of implicit variable interests that are absorbers, not creators, of risk. Accordingly, he noted that the analysis for the disclosure requirements in the FSP should be consistent with the way it is used in Interpretation 46(R).

Issue 3: Aggregation Principle

15. **Staff Recommendation:** The staff recommended changing the term *useful incremental information* to *more useful information* and clarifying in the basis for conclusions that it was not intended to be a lower threshold than materiality.
16. **Board Vote:** The Board unanimously voted to support the staff recommendation.
17. **Board Comments:** None.

Issue 4: Liquidity Guarantees and Other Commitments Provided by Third Parties

18. **Staff Recommendation:** The staff recommended removing the requirement to disclose liquidity guarantees and other commitments made by third parties. However, the staff noted that if the Board chooses to retain this requirement, the staff recommended clarifying that the objective of this disclosure is to provide information regarding how third-party arrangements impact the reporting entity's determination of the fair value or risk in an interest that continues to be held by the transferor or the fair value or risk of the enterprise's variable interest.
19. **Board Vote:** The Board voted to encourage, rather than require, that an entity disclose liquidity guarantees and other commitments made by third parties.
20. **Board Comments:** Mr. Linsmeier stated that the information should be disclosed to the extent known to help users assess the net risks of the enterprise, but that the enterprise should not be required to search for any guarantees and other commitments by third parties. Ms. Seidman stated that an enterprise would want to disclose any arrangements that mitigate its exposure to loss. However, Mr. Golden clarified that a preparer could not net such arrangements with its exposure to loss. Instead, a preparer would have to separately identify any arrangements that mitigate its exposure to loss.
21. Mr. Smith noted that third party guarantees of debt or equity securities accounted for under Statement 115 are not required to be disclosed. Therefore, he concluded that disclosure of third party guarantees should not be required to be included in the FSP. Ms. Seidman agreed with Mr. Smith, but proposed that the FSP encourage rather than require disclosure of third party guarantees.

Issue 5: Examples

22. **Staff Recommendation:** The staff did not recommend providing specific examples in the FSP. Alternatively, the staff proposed in various places to incorporate the objective into the specific disclosure requirements or to provide further guidance.

23. **Board Vote:** The Board unanimously voted to support the staff recommendation.
24. **Board Comments:** None.

Issue 6: International Convergence

25. **Staff Recommendation:** The staff noted that the IASB has not yet issued a proposal or final document to update the disclosure requirements related to derecognition or consolidation. As a result, the staff did not believe that the proposed timeline would allow for the Board to include the IASB tentative decisions before proceeding with issuance of a final FSP.
26. **Board Vote:** The Board unanimously voted to support the staff recommendation.
27. **Board Comments:** None.

Comments Specific to the Statement 140 Disclosures

Issue 7: Scope of the Disclosures Required of Transferors that Have Continuing Involvement

28. **Staff Recommendation:** The staff recommended that the FSP should not include a threshold for significance.
29. **Board Vote:** The Board unanimously voted to support the staff recommendation.
30. **Board Comments:** Mr. Smith questioned whether the staff considered a threshold that limited the disclosures to continuing involvement that was, or could potentially become, significant as it was proposed by some respondents. Mr. Mayer noted that financial statement users had indicated that they still wanted disclosures about continuing involvement that did not meet the significance threshold because preparers may not anticipate a certain form of continuing involvement becoming significant. Ms. Donoghue also noted that preparers often struggled with assessing what types of continuing involvement were *significant*.

31. Mr. Linsmeier noted that the concept of materiality would apply when assessing whether an enterprise had continuing involvement.

Issue 8: Exclusion of Certain Derivatives from the Definition of Continuing Involvement

32. **Staff Recommendation:** The staff recommended providing principles-based guidance on the interaction of the disclosure requirements in this FSP with other applicable accounting principles that apply to a particular form of continuing involvement, such as derivatives.
33. **Board Vote:** The Board unanimously voted to clarify which specific disclosures are required when a transferor has continuing involvement in a securitization or structured financing arrangement accounted for as a sale and the particular form of continuing involvement would already be disclosed to comply with other U.S. GAAP disclosure requirements.
34. **Board Comments:** Mr. Linsmeier supported an alternative proposal by the staff to only require specific disclosures, along with a cross reference to the other required disclosures, when a transferor has continuing involvement in a securitization or structured financing arrangement accounted for as a sale and the particular form of continuing involvement would already have specific U.S. GAAP disclosure requirements (such as a derivative). He noted that some derivatives related to a transfer of financial assets may have similar risk characteristics with the underlying transferred financial assets, while other derivatives related to a transfer of financial assets only have some of the risk characteristics of the transferred financial assets. Accordingly, he believed the staff proposal would provide users with information about which risks are transferred or retained as a result of the transfer, in addition to the specific disclosures required for the derivatives.
35. Mr. Golden questioned if the counterparty of the derivative would have to be the same as the counterparty in the transfer in order to be considered continuing

involvement for purposes of the disclosure. Mr. Linsmeier stated that the counterparty would have to be the same.

Issue 9: Fair Value Disclosures in Statement 140

36. **Staff Recommendation:** The staff recommended eliminating the disclosures in Statement 140 that are duplicative with FASB Statement No. 157, *Fair Value Measurements*, and eliminating the requirement to disclose model validation techniques for servicing assets and liabilities.
37. **Board Vote:** The Board unanimously voted to support the staff recommendation.
38. **Board Comments:** None.

Issue 10: Sensitivity Analysis

39. **Staff Recommendation:** The staff recommended retaining the existing requirement in Statement 140 to disclose a sensitivity analysis, which only applies to interests that continue to be held by the transferor and servicing assets/liabilities. The staff did not recommend modifying the existing requirement at this time.
40. **Board Vote:** The Board unanimously voted to support the staff recommendation.
41. **Board Comments:** None.

Issue 11: Disclosures for Secured Borrowings

42. **Staff Recommendation:** The staff recommended limiting the disclosures to transfers accounted for as secured borrowings to disclosure of the carrying amount and classification of assets and associated liabilities recognized in the transferor's statement of financial position, including qualitative information about the relationship(s) between those assets and associated liabilities
43. The staff also recommended clarifying when a particular disclosure applies by reorganizing the disclosures into the following categories: (a) collateral, (b) extinguishments of debt, (c) all servicing, (d) servicing subsequently measured at

fair value, (e) servicing subsequently amortized, (f) transfers accounted for as sales (for each statement of financial position presented), (g) transfers accounted for as sales (for each income statement presented), and (h) transfers accounted for as secured borrowings.

44. **Board Vote:** The Board unanimously voted to support the staff recommendation.

45. **Board Comments:** None.

Issue 12: Transfers to an SPE

46. **Staff Recommendation:** The staff recommended that instead of saying “transferred to an SPE,” the language should be modified to remove the term SPE and explicitly state that the disclosure applies to entities whose activities are primarily related to securitization or other forms of asset-backed financings.

47. **Board Vote:** The Board unanimously voted to support the staff recommendation.

48. **Board Comments:** Mr. Linsmeier questioned whether the disclosure would still capture all forms of transfers that should be disclosed. He requested that the staff include a question to external reviewers asking whether this change would cause any unanticipated consequences.

Issue 13: Gain on Sale Disclosures

49. **Staff Recommendation:** The staff recommended that this disclosure requiring quantitative information about the gain or loss on the transfer of financial assets be modified to be similar to the existing requirement in Statement 140.

50. **Board Vote:** The Board unanimously voted to support the staff recommendation.

51. **Board Comments:** Ms. Seidman agreed that the disclosure would be confusing under the existing Statement 140 model, due to the relative fair value allocation, but questioned whether the disclosure would even be helpful under the Statement 140 model, as amended. She noted that a preparer would essentially have to aggregate

all of its journal entries on a transfer and questioned whether it would provide meaningful information.

Issue 14: Disclosures for a Transferor that has No Continuing Involvement

52. **Staff Recommendation:** The staff recommended that the disclosure requirements for transferors in the FSP only apply when a transferor has continuing involvement.
53. **Board Vote:** The Board unanimously voted to support the staff recommendation.
54. **Board Comments:** Mr. Linsmeier questioned whether disclosures should be required for an entity that transfers financial assets to the same counterparty on a repeated basis, even though that entity does not retain any continuing involvement with the transferred financial assets. He noted that there could be implications for an entity's reputation risk in this type of situation. Mr. Golden stated that if there were any unwritten arrangements with the counterparty, those would constitute continuing involvement and would be required to be disclosed.
55. Mr. Leisenring stated that users had also indicated that they wanted disclosures regarding the total activity levels of transfers of financial assets, regardless of whether or not the transferor maintained continuing involvement in the transfers.

Issue 15: Disclosures Applicable to Guaranteed Mortgage Securitizations

56. **Staff Recommendation:** Due to the interim nature of the FSP, the staff recommended not clarifying whether the Statement 140 disclosures in the FSP apply to guaranteed mortgage securitizations.
57. **Board Vote:** The Board unanimously voted to support the staff recommendation.
58. **Board Comments:** None.

Comments Specific to the Interpretation 46(R) Disclosures

Issue 16: Level of Disclosures for Consolidation Variable Interest Entities

59. **Staff Recommendation:** The staff did not recommend removing any of the proposed disclosures for primary beneficiaries, other than the disclosure to separately provide the fair value of a consolidated variable interest entity's assets and liabilities.
60. **Board Vote:** The Board unanimously voted to support the staff recommendation.
61. **Board Comments:** None.

Issue 17: Sponsors

62. **Staff Recommendation:** The staff recommended not including a definition of the term *sponsor* in the FSP. Additionally, the staff recommended removing the parenthetical that says "irrespective of the significance of the variable interest."
63. **Board Vote:** The Board unanimously voted to support the staff recommendation.
64. **Board Comments:** Mr. Smith stated that while he agreed with the staff recommendation, he found it troubling that the Board was not providing additional information on what constituted a sponsor since numerous respondents requested a definition. However, Mr. Herz noted that any definition would likely result in follow-up questions. Additionally, Mr. Mayer stated that he had seen numerous examples in 10-Ks where preparers identified variable interest entities that they had sponsored. Mr. Linsmeier noted that preparers would know if they were a sponsor and noted that no respondents to the proposed FSP provided specific examples of fact patterns where it would be difficult to identify the sponsor.

Issue 18: Methodology for Determining Whether the Enterprise is (or is not) the Primary Beneficiary

65. **Staff Recommendation:** The staff noted that disclosure of the methodology for determining whether the enterprise is (or is not) the primary beneficiary was consistent with the requirement in Accounting Research Bulletin No. 51, *Consolidated Financial Statements*, to disclose the consolidation policy which is being followed. To meet this disclosure requirement, the staff recommended

clarifying that one way to meet this requirement is to disclose the general types of involvements it considers significant and how those involvements were considered in an enterprise's determination of whether it is the primary beneficiary.

66. The staff also recommended deleting the language that requires disclosure of "whether a different assumption or judgment could have reasonably been made that would result in a different conclusion."
67. **Board Vote:** The Board unanimously voted to support the staff recommendation.
68. **Board Comments:** Mr. Siegel supported the staff recommendation but noted that some user groups had indicated that the requirement to disclose whether a different assumption or judgment could have reasonably been made would provide useful information. However, Mr. Linsmeier stated that users should largely be able to make their own assessment, given the requirement for preparers to disclose the assumptions and judgments used in determining whether to consolidate a variable interest entity.

Issue 19: Disclosure of an Enterprise's Estimated Exposure to Loss

69. **Staff Recommendation:** The staff recommended amending the proposed disclosures that would have required an enterprise to disclose its estimated exposure to loss with a requirement to provide a tabular comparison of its maximum exposure to loss with the liability recognized in its financial statements (a side-by-side comparison). The tabular comparison would be supplemented with a requirement to provide qualitative and quantitative information explaining the differences between the two amounts with examples of what should be considered.
70. **Board Vote:** The Board unanimously voted to support the staff recommendation.
71. **Board Comments:** Mr. Herz noted that the proposed disclosure only related to an enterprise's involvement with unconsolidated variable interest entities. He questioned whether information is needed about the maximum exposure to loss for consolidated variable interest entities. Mr. Leisenring noted that the consolidated

assets and liabilities would be subject to other generally accepted accounting principles. Mr. Herz also noted that for financial assets and liabilities reported at fair value, an enterprise is already required to disclose the par amounts.

72. Mr. Golden questioned whether the maximum exposure is the maximum amount that an enterprise could be required to expend in cash flow or the maximum amount that an enterprise could recognize as a liability. Mr. Mayer stated that it would be the maximum cash flow that could be expended.

Issue 20: Scope Exception for Primary Beneficiaries That Also Hold a Majority Voting Interest

73. **Staff Recommendation:** The staff recommended utilizing the scope exemption that currently exists in Interpretation 46(R), clarifying that it is applicable provided the activities of the variable interest entity are not primarily related to securitization or other forms of asset-backed financings or single-lessee leasing arrangements.
74. **Board Vote:** The Board unanimously voted to support the staff recommendation.
75. **Board Comments:** Mr. Leisenring questioned whether a manufacturing company with a wholly-owned finance company that had insufficient equity, which caused it to become a variable interest entity, would be required to provide the primary beneficiary disclosures in Interpretation 46(R). Mr. Roberge stated that the manufacturing company would not be required to provide those disclosures under the staff recommended scope exemption. Mr. Linsmeier noted that in the example provided by Mr. Leisenring, the finance company was the securitizer, not the manufacturing company. Mr. Leisenring agreed that the entity should be exempt from the disclosures because the manufacturing company would have never assessed whether its wholly-owned subsidiary had become a variable interest entity.

Issue 21: Significant to the Variable Interest Entity or Reporting Enterprise

76. **Staff Recommendation:** The staff did not recommend providing guidance in the FSP about how to determine if an enterprise has a significant variable interest.

77. **Board Vote:** The Board unanimously voted to support the staff recommendation.
78. **Board Comments:** Mr. Smith noted that the proposed Statement to amend Interpretation 46(R) addresses how to determine if an enterprise has a significant variable interest.

Comments Specific to the Nontransferor Disclosures

Issue 22: Scope

79. **Staff Recommendation:** The staff recommended deleting the disclosure requirements for an enterprise that holds a significant variable interest in a qualifying SPE but was not the transferor.
80. **Board Vote:** The Board unanimously voted to modify the scope of the proposed FSP to require disclosures for nontransferor sponsors that hold a variable interest in a qualifying SPE and nontransferor servicers of a qualifying SPE that hold a variable interest in a qualifying SPE.
81. **Board Comments:** Mr. Linsmeier questioned why the staff did not retain the nontransferor disclosures and provide an exemption for passive investors. Ms. Donoghue stated that the staff was concerned with defining passive and requiring the disclosures for any nontransferors, given the proposed effective date of the FSP. She stated that nontransferors that had a variable interest in a qualifying SPE would need additional time to gather the information to provide the disclosures and would have to provide the information on the effective date for the amendments to Interpretation 46(R).
82. Mr. Golden proposed an alternative whereby a sponsor or a servicer with a significant variable interest in a qualifying SPE would be required to provide the disclosures because a sponsor or a servicer would have the ability to obtain the necessary information.

Issue 23: Effective Date and Transition

83. **Staff Recommendation:** The staff recommended that this FSP be effective for reporting periods ending after December 15, 2008, with earlier application of all or some disclosure requirements encouraged. In addition, the staff recommended clarifying that if this FSP is adopted in a period other than an annual reporting period, the FSP will apply to the initial interim period and each annual reporting period thereafter.
84. **Board Vote:** The Board unanimously voted to support the staff recommendation.
85. **Board Comments:** Ms. Donoghue also noted that many enterprises that previously had a November 30, 2008 calendar year-end had reorganized and were going to change to a December 31, 2008 year-end. Mr. Mayer noted that Statement 140 and Interpretation 46(R) required many disclosures only on an annual basis, so enterprises with a November 30 year-end may want to early adopt the FSP in order to avoid having to provide all of the disclosures in their first quarterly financial statements.

Follow-up Items:

None.

General Announcements:

None.