

MINUTES



**To:** Board Members  
**From:** Gibbons (Ext. 446)  
**Subject:** Minutes of the June 7, 2006 Board Meeting (Transfers of Financial Assets) **Date:** June 14, 2006  
**cc:** Bielstein, MacDonald, Smith, Linsmeier, Leisenring, Project Team, Carney, Allen, Sutay, Gabriele, Polley, FASB Intranet (e-mail)

*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 or Interpretation.*

Topic: Transfers of Financial Assets—Redeliberations

Basis for Discussion: Memorandum 62, dated May 12, 2006

Length of Discussion: 9:00 a.m. to 10:40 a.m.

Attendance:

Board members present: Herz, Batavick, Schipper, Seidman, Trott, and Young

Board members absent: Crooch

Staff in charge of topic: Donoghue, Barker, Lusniak, Gibbons, and Arveseth

Other staff at Board table: L. Smith, Golden

Outside participants: None

Summary of Decisions Reached:

The Board continued redeliberations on the August 2005 Exposure Draft, *Accounting for Transfers of Financial Assets*, by discussing whether to proceed with the project. The Board decided to continue redeliberations on the project and agreed to:

- a. Proceed with redeliberations on the issues relating to isolation (paragraphs 9(a), 27A, 27B, 9(d), and 9(e)) and whether equity instruments may be held by a qualifying special-purpose entity (SPE).
- b. Delete consideration of the guidance on initial measurement and passive derivative financial instruments held by a qualifying SPE and retain the provisions in FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*, for those issues.
- c. Reconsider whether to proceed with redeliberations on rollovers of beneficial interests, participating interests (paragraph 8A), and control criteria (paragraph 9(b)) at a future Board meeting.

Objective of Meeting:

The objective of the meeting was to determine whether the Board wants to proceed with redeliberations of the August 2005 Exposure Draft.<sup>1</sup> If the Board decides to proceed, the objective will be for Board members to identify the issues that they would like to redeliberate at future meetings. The objectives were partially met at the meeting.

Matters Discussed and Decisions Reached:

1. Ms. Donoghue began the discussion by stating that the staff had planned to ask the Board whether to affirm, delete consideration of, or redeliberate key decisions that are reflected in the Exposure Draft. However, due to the frustration that Board members have expressed with Statement 140, the staff

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<sup>1</sup>A summary chart detailing the objective, key decisions, alternatives, and staff recommendation for each issue is included as Attachment 1.

is first asking Board members whether they would like to (a) proceed with redeliberations or (b) focus their attention on a research project to replace Statement 140. While the staff believes it is necessary to address certain issues associated with the Exposure Draft, it is concerned with the number and complexity of practice issues related to Statement 140 and believes that the current model is flawed.

2. In summary, four Board members (Mr. Crooch, Mr. Trott, Ms. Schipper, and Mr. Young) supported proceeding with redeliberations of at least some of the issues identified. The other three Board members (Mr. Herz, Mr. Batavick, and Ms. Seidman) supported discontinuing redeliberations on the decisions reflected in the Exposure Draft and stated that they would prefer to focus staff and Board efforts on a research project to comprehensively reconsider derecognition of financial assets.
3. Ms. Seidman expressed support for discontinuing redeliberations on the transfers project and recommended that efforts be directed to exploring a new derecognition model together with the International Accounting Standards Board (IASB). She stated that the concepts of financial *control* and *risks and rewards* (as described and rejected in paragraphs 132-140 of Statement 140) clash and that she believes that the Board should stop commingling the two concepts. She believes that the Board should develop a consistent concept of control that can be applied to both control over a financial asset and control over an entity. The conceptual framework project team is re-evaluating the concept of control and the staff is currently conducting a separate research project on consolidation; those efforts could benefit work in a new derecognition model, in her view. Ms. Seidman stated that some of the issues in this project, including rollovers of beneficial interests and equity instruments, might be addressed in conjunction with the project on servicer discretion. Mr. Batavick generally agreed with the concerns raised by Ms. Seidman and stated that his preference would be to discontinue redeliberations on the transfers project, but he that would not object to

continuing redeliberations on certain pressing issues for purposes of issuing an amendment to Statement 140.

4. Mr. Herz stated that he does not support proceeding with the redeliberations on the Exposure Draft. He stated that when analyzing the importance of a project, he considers (a) possible improvements to financial reporting, (b) practice issues arising from existing standards, and (c) international convergence. In his view, when assessing this project against those criteria, redeliberating the issues may help to address practice issues, but there is not a significant potential for achieving greater transparency, greater understandability, or international convergence by proceeding with the amendment. He suggested a few possible approaches for reporting transfers of financial assets:
  - (1) An approach based on whether there is continuing involvement
  - (2) An approach that would either eliminate qualifying SPEs or remove the scope exception for those entities in FASB Interpretation No. 46 (revised December 2003), *Consolidation of Variable Interest Entities*.
5. Mr. Trott stated that he is in favor of proceeding with the project due to the frequent and pervasive practice issues with Statement 140. He agrees that in the future a research project with the IASB would be appropriate, but that certain practice issues need to be addressed now. He disagrees with Ms. Seidman and stated that the *risks and rewards* and *control* concepts are linked and that the *risk and rewards* approach is present in the notion of continuing involvement. The ramifications of the IASB's approach to this issue in IAS 39, *Financial Instruments: Recognition and Measurement* are currently unclear. In his view, not every issue identified by the staff needs redeliberation; some are more important than others and the Board should prioritize those issues.
6. Ms. Schipper generally agreed with Mr. Trott's views and stated the failure of a standard setter to act given that questions have been raised about a standard is undesirable. She is not optimistic about achieving a timely

resolution to the issues based on a joint IASB/FASB research project. She believes that the *risk and rewards* and *control* notions are linked due to the fact that it is the receipt of *risks and rewards* that make *control* desirable. In her view, relying on the legal profession's true sale opinions has been disappointing and has decreased comparability, a desirable quality of accounting information. An accounting analysis, rather than a legal analysis, is a more appropriate approach to determine whether financial assets are isolated from a transferor. She stated that in her view there is evidence to support a conclusion that capital market participants are already subjecting qualifying SPEs to some form of consolidation, which raises the question of whether accounting guidance should specifically create a class of structures that is exempt from consolidation.

7. Mr. Young agreed with Ms. Schipper's and Mr. Trott's approaches and stated that while he is frustrated with the Statement 140 model and the lack of a consolidation framework, more complete guidance should be provided for certain issues, including isolation and rollovers of beneficial interests.
8. Mr. Herz provided Mr. Crooch's written remarks, stating that Mr. Crooch is supportive of redeliberating at least some of the issues, particularly isolation, and that he does not object to deliberating other issues.
9. Mr. Herz asked the staff to provide the Board with its initial thoughts on conducting a research project on derecognition. Mr. Smith stated that the staff would provide Board members with those initial thoughts and noted that there is currently a research project on financial instruments which is considering derecognition.

### **Rollovers of Beneficial Interests**

10. Mr. Arveseth began the discussion on rollovers of beneficial interests by stating that at the time the Board developed FASB Statement No. 125, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*, and Statement 140 it did not anticipate that entities that finance longer term financial assets by issuing shorter term

beneficial interests would be qualifying SPEs. Therefore, the Board did not develop conditions in those Statements that that would explicitly restrict the rollover of beneficial interests issued by qualifying SPEs. Subsequent to the issuance of Statement 140, constituents have requested additional guidance for determining the extent to which a qualifying SPE is permitted to determine the terms of beneficial interests and whether that activity satisfies the requirements that a qualifying SPE's activities be *significantly limited* and *entirely specified*. The Board proposed guidance on this issue in the Exposure Draft, but respondents generally objected to the proposed guidance, suggesting certain concepts within the proposed guidance are not clearly defined and that the proposed guidance is not operational.

11. Three Board members (Ms. Schipper, Mr. Trott, and Mr. Young) supported reconsidering the guidance provided in the Exposure Draft on rollovers of beneficial interests and three Board members (Mr. Batavick, Mr. Herz, and Ms. Seidman) supported deleting consideration of this issue. Mr. Herz stated that he only would support proceeding with deliberations on rollovers of beneficial interests if the issue were considered within the context of the *significantly limited* and *entirely specified* framework. Ms. Seidman supported Mr. Herz's comments on this issue. Due to the split decision and the absence of Mr. Crooch, the Board asked the staff to bring the issue back to the Board at a future meeting.

**Isolation: Paragraph 9(a)**

12. Ms. Lusniak began the discussion on paragraph 9(a) by stating that the Board decided to modify that paragraph to state that derecognition is appropriate only if the assets would be beyond the reach of the bankruptcy trustee or other receiver for the transferor and its consolidated affiliates. Some constituents expressed confusion because the language in the standard is somewhat different from that in the basis for conclusions. The staff's view on this issue is that additional clarification is necessary. The staff has outlined three views for the Board to explore:

- a. **View A** would retain the Statement 140 isolation guidance, which limits the isolation analysis to the transferor and its consolidated affiliates, and provide drafting changes to provide clarity.
  - b. **View B** would modify View A and require that the isolation analysis depend upon two legal analyses:
    - (1) One from the transferor's perspective for the consolidated financial statements of the transferor; and
    - (2) Another from the transferor's parent's perspective, for the consolidated financial statements that include the transferor.
  - c. **View C** would require that both a legal and accounting analysis be completed; one that treats actions of affiliates (even those that are not consolidated by a transferor) as if they were actions taken by the transferor. This view would require a legal analysis based on hypothetical circumstances.
13. Four Board members (Mr. Herz, Ms. Schipper, Mr. Trott, and Mr. Young) supported redeliberating the guidance related to paragraph 9(a) provided in the Exposure Draft. Two Board members (Mr. Batavick and Ms. Seidman) supported deleting consideration of this issue.

**Isolation: Paragraph 9(d)**

14. Ms. Lusniak began the discussion on paragraph 9(d) by stating that it was added to require that the isolation analysis consider any arrangement or agreement that was made in connection with a transfer even if it was not entered into at the time of the transfer. Respondents to the Exposure Draft requested additional clarification on the application of this provision and the staff recommends redeliberating and providing that clarification.
15. Four Board members (Mr. Herz, Ms. Schipper, Mr. Trott, and Mr. Young) supported redeliberating the issue but generally agreed that they consider this a drafting issue. Ms. Seidman stated that she does not support continuing with this issue. In her view, determining whether an arrangement that was not entered into at the time of transfer was made in connection with a transfer

would create additional practice issues—it is not simply a drafting issue. Mr. Trott stated that paragraph 9(d) requires all aspects of a transaction to be considered.

**Isolation: Paragraph 9(e)**

16. Ms. Lusniak began the discussion on paragraph 9(e) by stating that the Board added that paragraph to require that, if a transferee is a qualifying SPE, no arrangement or agreement is made that would have caused the assets not to be isolated if the same arrangement had involved the qualifying SPE instead of the beneficial interest holders. Constituents have argued that paragraph 9(e) is an extension of paragraph 9(a) and that the requirements of paragraph 9(e) require attorneys to make assumptions that the actions taken by an affiliate are done on behalf of the transferor. Ms. Lusniak recommended that no decision could be made on paragraph 9(e) until a decision was made on paragraph 9(a). The Board members agreed to proceed with redeliberations on this issue and agreed that paragraph 9(e) and will be reconsidered when paragraph 9(a) is redeliberated.

**Participating Interests**

17. Ms. Barker began the discussion on participating interests by stating that the addition of paragraph 8A was a compromise that would require derecognition of a portion of a financial asset only if the resulting portions meet the definition of a participating interest. Otherwise, derecognition would only be appropriate if the entire financial asset is transferred to a qualifying SPE or other nonconsolidated entity outside the control of the transferor.

18. Board members were divided on this issue and asked the staff to bring the issue back to the Board at a future meeting. (Mr. Trott and Ms. Schipper voted to proceed with deliberations on this issue; Mr. Herz, Ms. Seidman, and Mr. Batavick voted to discontinue deliberations on this issue; and Mr. Young abstained). Mr. Trott stated that he is concerned that undivided and beneficial interests are not sufficiently different to warrant different accounting. Ms. Seidman noted that in her view, paragraph 8A is

unnecessary to provide guidance on when a qualifying SPE is required; she stated that every transferee should be required to be evaluated under paragraph 9(b) and to the extent that a transferee is constrained in pledging the assets it receives, that entity must be a qualifying SPE.

**Isolation: Paragraph 9(b)**

19. Ms. Barker began the discussion on the guidance in paragraph 9(b) by stating that the proposed revisions to the transferability requirements in that paragraph state that each step in a multi-step securitization transaction involves a transferee and requires that each transferee be able to freely pledge and exchange the transferred financial assets it receives. Respondents to the Exposure Draft questioned whether preprogrammed transfers from a bankruptcy-remote entity to another entity or transfers from one qualifying SPE to another would meet the requirements of that paragraph.

20. Three Board members (Ms. Schipper, Mr. Trott, and Mr. Young) supported reconsidering the paragraph 9(b) guidance and three Board members (Mr. Batavick, Mr. Herz, and Ms. Seidman) supported deleting consideration of this issue. Due to the split decision and the absence of Mr. Crooch, the Board asked the staff to bring the issue back to the Board at a future meeting.

**Implementation Guidance: Paragraphs 27A and 27B**

21. Ms. Lusniak began the discussion on paragraphs 27A and 27B by stating that the intent of these paragraphs was to clarify what should be considered in a legal analysis of a transfer. The proposed guidance focuses narrowly on U.S. bankruptcy jurisdictions, and constituents expressed concern with the applicability of the guidance to other jurisdictions.

22. The Board agreed to reconsider this issue in conjunction with the isolation guidance in paragraph 9(a).

**Equity Instruments**

23. Ms. Gibbons began the discussion on the issue of passive equity instruments held by a qualifying SPE. She stated that the Board's objective for

addressing this issue was to address concerns with a transaction whereby a transferor may convert limited partnership interests reported under the equity method to available-for-sale securities by transferring those interests to a qualifying SPE. The proposed guidance would prohibit a qualifying SPE from holding equity instruments, with a couple of exceptions as noted in paragraphs 35(c)(5) and 35(c)(6). Constituents expressed concerns with prohibiting a qualifying SPE from holding equity instruments and stated that certain types of equity instruments, including money market funds and titling trust certificates, are sufficiently passive and should be permitted to be held by a qualifying SPE.

24. The Board agreed to proceed with redeliberations on that issue. Ms. Seidman asked whether the fair value option project would permit measurement of equity method investments at fair value. Ms. Schipper stated that it would, but that it would not allow those investments to be accounted for as available-for-sale, with gains and losses reported in other comprehensive income.

#### **Initial Measurement**

25. Ms. Donoghue began the discussion on the initial measurement of beneficial interests by stating that the Board decided to initially measure beneficial interests at fair value, in part because the Board considered a transfer of financial assets to a qualifying SPE to be a remeasurement event. The staff observed that the fair value option project also is progressing and the election in that project will be made available to beneficial interests when that project is finalized only if a transfer is considered to be a remeasurement event.
26. Four Board members (Mr. Herz, Mr. Batavick, Ms. Seidman, and Mr. Young) supported deleting consideration of this issue and two Board members (Ms. Schipper and Mr. Trott) supported redeliberating the issue. Mr. Trott stated that the allocation approach does not provide useful information. Ms. Seidman stated that an allocation of the carrying amount is appropriate in Statement 140 because a sale is only recognized to the extent that something other than a beneficial interest is received in the same financial assets. Mr.

Herz noted that he is concerned with remeasuring beneficial interests held by a transferor when only 10 percent of beneficial interests are required to be held by parties other than the transferor. Ms. Schipper stated that Mr. Herz is introducing the question of what is the appropriate threshold of beneficial interests held by parties other than the transferor and its affiliates that should constitute a remeasurement event.

### **Limitations on Passive Derivative Financial Instruments Held by a Qualifying SPE**

27. Ms. Gibbons began the discussion on this issue by stating that the Board's objective for changing the limitation on the amount of passive derivative financial instruments held by a qualifying SPE was to reconsider the appropriateness of that guidance, given the issuance of FASB Statement No. 155, *Accounting for Certain Hybrid Financial Instruments*. In the Exposure Draft the Board decided to propose amendments that would permit a qualifying SPE to hold passive derivative financial instruments that pertain to all beneficial interests issued, including those held by a transferor. Most respondents to the Exposure Draft supported the proposed changes, but a few suggested that the limitation be removed in its entirety.

28. The Board decided to delete consideration of this issue. Ms. Schipper noted that there is no basis for amending the guidance in Statement 140 for this issue without a decision to require that a transferor's beneficial interest be measured at fair value. Mr. Trott asked the Board to reconsider the decision related to initial measurement because of the linkage between initial measurement and limitations on passive derivatives. He noted that those two issues received strong support in the comment letters and would simplify the accounting. The Board declined to change its decision on initial measurement.

#### Follow-up Items:

Due to a split vote on the issues of rollovers of beneficial interests, participating interests, and the guidance in paragraph 9(b), the Board asked the staff to bring

those issues back to the Board for discussion at a future Board meeting. In addition, the Board asked the staff to present initial thinking on a separate research project on consolidation and to consider how those efforts could be used in a new derecognition model.

General Announcements:

None.

**Attachment 1  
Issue Summary Chart**

| Objective   | Decision  | Alternatives  | Staff Recommendation |
|---|---|---|----------------------|
| <b><i>Rollovers of Beneficial Interests</i></b>   |   |   |                      |
| <p>To address whether the power of a SPE to determine the terms of beneficial interests issued after its inception is consistent with the paragraph 35 requirements for the permitted activities of a qualifying SPE.</p> | <p>The Board decided (1) to define <i>reissuance of beneficial interests</i>, (2) that issuances from master trusts would not be considered reissuances if the newly issued beneficial interests represent a reduction in the transferor’s retained interest, and (3) that no party should be permitted to obtain a more-than-trivial incremental benefit as a result of reissuances.</p>     | <ol style="list-style-type: none"> <li>1. Reaffirm the decision in the Exposure Draft.</li> <li>2. Delete consideration of this issue.</li> <li>3. Redeliberate the decision and determine whether to:               <ol style="list-style-type: none"> <li>a. Disallow rollovers.</li> <li>b. Clarify the meaning of “more-than-trivial incremental benefit”.</li> <li>c. Provide examples of acceptable and unacceptable combinations of involvements by a single party.</li> <li>d. Clarify the guidance for beneficial interests issued by a master trust.</li> <li>e. Consider other alternatives.</li> </ol> </li> </ol>        | <p>Alternative 3</p> |
| <b><i>Isolation—9(a)</i></b>  |   |   |                      |
| <p><u>Objective I:</u> To clarify how parties affiliated with a transferor should be treated in the isolation analysis.</p>   | <p>The Board decided to modify paragraph 9(a) to state that derecognition of transferred assets is appropriate only if the assets would be beyond the reach of a bankruptcy trustee or other receiver for the transferor or any consolidated affiliate of the transferor that is not an SPE designed to make remote the possibility that it would enter bankruptcy or other receivership.</p> | <ol style="list-style-type: none"> <li>1. Reaffirm the decision in the Exposure Draft.</li> <li>2. Delete consideration of this issue.</li> <li>3. Redeliberate the decision and determine whether to:               <ol style="list-style-type: none"> <li>a. Require that a legal analysis consider involvements of affiliates only if the affiliate is included in the consolidated financial statements of the transferor (View A)</li> <li>b. Require that a transferor perform both a legal analysis and an accounting analysis (that treats the involvements of the transferor’s affiliates as if those</li> </ol> </li> </ol> | <p>Alternative 3</p> |

| Objective                    | Decision  | Alternatives   | Staff Recommendation |
|------------------------------|---|--|----------------------|
|                              |   | <p>involvements were attributed directly to the transferor) (View C)</p> <p>c. Require that the transferor evaluate whether the transferred assets have been isolated from (1) all of the entities consolidated in the parent’s financial statements and (2) the transferor and its consolidated affiliates (clarification of View B)</p> <p>d. Consider other alternatives.</p>   |                      |
| <b><i>Isolation—9(d)</i></b> |   |  |                      |
| Same as Objective I (above). | The Board added paragraph 9(d) to require that the isolation analysis consider any arrangement or agreement made in connection with a transfer even if it was not entered into at the time of the transfer.   | <ol style="list-style-type: none"> <li>1. Reaffirm the decision in the Exposure Draft.</li> <li>2. Delete consideration of this issue.</li> <li>3. Redeliberate the decision and consider whether to:               <ol style="list-style-type: none"> <li>a. Provide additional guidance on paragraph 9(d).</li> <li>b. Distinguish between the requirements of paragraphs 9(d) and 55.</li> <li>c. Incorporate paragraph 9(d) into paragraph 9(a).</li> <li>d. Consider other alternatives.</li> </ol> </li> </ol> | Alternative 3        |
| <b><i>Isolation—9(e)</i></b> |   |  |                      |
| Same as Objective I (above). | The Board added paragraph 9(e) to require that if the transferee is a qualifying SPE, no arrangement or agreement is made between any holder of beneficial interests issued by the qualifying SPE and the transferor, or its consolidated affiliates or agents, that would have | <ol style="list-style-type: none"> <li>1. Reaffirm the decision in the Exposure Draft.</li> <li>2. Delete consideration of this issue.</li> <li>3. Redeliberate the decisions including consideration of whether the staff should develop other alternatives or prepare additional research.</li> </ol>  | Alternative 2        |

| Objective                                       | Decision   | Alternatives  | Staff Recommendation |
|---|--|---|----------------------|
|   | caused the assets not to be isolated if the same arrangement or agreement had involved the qualifying SPE instead of the beneficial interest holders.  |   |                      |
| <b><i>Isolation—Participating Interests</i></b> |  |   |                      |
| Same as Objective I (above).                    | The Board added paragraph 8A to require that derecognition of a portion of a financial asset can only be accomplished if the resulting portions meet the definition of a participating interest. Otherwise, derecognition is only appropriate if the entire financial asset is transferred to a qualifying SPE or other nonconsolidated SPE outside the control of the transferor. | <ol style="list-style-type: none"> <li>1. Reaffirm the decision in the Exposure Draft.</li> <li>2. Delete consideration of this issue.</li> <li>3. Redeliberate the decision and determine whether to:               <ol style="list-style-type: none"> <li>a. Distinguish between participations in an individual financial instrument and in a pool of financial instruments.</li> <li>b. Allow participations to include standard representations and warranties and/or transferee recourse to the transferor and/or other transferees in respect of a setoff sharing provision.</li> <li>c. Allow subordination resulting from a government guarantee.</li> <li>d. Permit subordination when it is not provided by the transferor, its affiliates, or any transferee.</li> <li>e. Consider other alternatives.</li> </ol> </li> </ol> | Alternative 3        |
| <b><i>Isolation—9(b)</i></b>                    |  |   |                      |

| Objective                    | Decision  | Alternatives   | Staff Recommendation |
|------------------------------|---|--|----------------------|
| Same as Objective I (above). | The Board clarified paragraph 9(b) to require that <b>each</b> step in a multi-step securitization transaction designed to isolate the transferred assets involves a transferee and <b>each</b> transferee must satisfy the transferability requirements in paragraph 9(b), including transferees that are consolidated with the transferor in a multi-step transfer. | <ol style="list-style-type: none"> <li>1. Reaffirm the decision in the Exposure Draft.</li> <li>2. Delete consideration of this issue, requiring only the ultimate transferee or beneficial interest holder to satisfy the transferability requirements.</li> <li>3. Redeliberate the decision and determine whether to: <ol style="list-style-type: none"> <li>a. Specify that a preprogramming feature does not provide a more-than-trivial benefit.</li> <li>b. Clarify that important transfers are those that move assets outside of a transferor's consolidated group and the look-through analysis currently permitted when transferring from one qualifying SPE to another would continue to be permitted.</li> <li>c. Exclude bankruptcy-remote entities from paragraph 9(b) requirements.</li> <li>d. Clarify that paragraph 9(b) only applies to transfers required to achieve legal isolation of assets.</li> <li>e. Consider other alternatives.</li> </ol> </li> </ol> | Alternative 3        |

| <b><i>Isolation—Implementation Guidance in Paragraphs 27A and 27B</i></b>  |  |  |                          |
|--|--|--|--------------------------|
| <p><u>Objective II</u>: To clarify the implementation guidance on the type of legal evidence required to support a conclusion that the isolation criteria have been met under U.S. bankruptcy law.</p>                                       | <p>The Board decided to describe the conditions that an attorney would be expected to consider when rendering a legal opinion that (1) a transfer is a true sale at law and (2) the transferred assets would not be deemed to be a part of the estate of the transferor or its consolidated affiliates in U.S. bankruptcy or receivership.</p> | <ol style="list-style-type: none"> <li>1. Reaffirm the decision in the Exposure Draft.</li> <li>2. Delete consideration of this issue (delete paragraphs 27A and 27B).</li> <li>3. Redeliberate the decision and determine whether to:               <ol style="list-style-type: none"> <li>a. Delete consideration of this issue for purposes of this amendment, but provide additional guidance limited to certain jurisdictions as an FSP or addition to a FASB Special Report, <i>A Guide to Implementation of Statement 140 on Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities</i>.</li> <li>b. Modify paragraphs 27A and 27B to be consistent with audit guidance.</li> <li>c. Consider other alternatives.</li> </ol> </li> </ol> | <p>Alternative<br/>3</p> |
| <b><i>Equity Instruments</i></b>   |  |  |                          |
| <p>To prevent a transaction that would permit a holder of limited partnership interests (generally accounted for under the equity method) to convert those interests to available-for-sale securities by transferring the interests to a</p> | <p>A qualifying SPE would be prohibited from holding equity securities, with the exception of (1) temporary interests in money market fund shares of cash collected pending distribution of beneficial interest holders and (2) temporarily held equity instruments obtained as a result of efforts to collect other financial assets.</p>     | <ol style="list-style-type: none"> <li>1. Reaffirm the decision in the Exposure Draft.</li> <li>2. Delete consideration of this issue.</li> <li>3. Redeliberate the decision and determine whether to permit a qualifying SPE to hold certain types of equity instruments under paragraph 35(c)(1) such as:               <ol style="list-style-type: none"> <li>a. Money market funds</li> <li>b. Titling trust certificates</li> <li>c. Other alternatives.</li> </ol> </li> </ol>   | <p>Alternative<br/>3</p> |

|   |  |  |                  |
|---|--|--|------------------|
| qualifying SPE.   |  |  |                  |
| <b><i>Initial Measurement</i></b>   |  |  |                  |
| To reconsider initial measurement guidance for interests that continue to be held by a transferor.  | A <i>beneficial interest</i> received by a transferor in a transferred financial asset is a new financial asset and should be initially measured at fair value if the original financial asset, in its entirety, has been transferred to an entity that is not controlled by the transferor, such as a qualifying SPE. A <i>participating interest</i> in an original financial asset that continues to be held by a transferor is not a new financial asset to the transferor and should be initially measured by allocating the previous carrying amount between the participating interest that continues to be held by the transferor and the participating interest or interests that have been sold. | <ol style="list-style-type: none"> <li>1. Reaffirm the decision in the Exposure Draft.</li> <li>2. Delete consideration of this issue.</li> <li>3. Redeliberate the decision and determine whether to: <ol style="list-style-type: none"> <li>a. Permit a fair value option for beneficial interests along the same lines as the fair value option project or FASB Statement No. 156, <i>Accounting for Servicing of Financial Assets</i></li> <li>b. Reconsider the 10 percent threshold for sale accounting for transfers to a qualifying SPE.</li> <li>c. Provide guidance on subsequent measurement.</li> <li>d. Consider other alternatives.</li> </ol> </li> </ol> | Alternative<br>3 |
| <b><i>Limitations on Derivatives Held by a Qualifying SPE</i></b>   |  |  |                  |
| To reconsider the limitations on the ability of a qualifying SPE to hold derivative financial instruments due to the issuance of FASB Statement No. 155, <i>Accounting for Certain Hybrid Financial Instruments</i> . | A qualifying SPE would be permitted to hold passive derivative financial instruments that pertain to all beneficial interests issued, including those beneficial interests held by a transferor.   | <ol style="list-style-type: none"> <li>1. Reaffirm the decision in the Exposure Draft.</li> <li>2. Delete consideration of this issue.</li> <li>3. Redeliberate the decision and determine whether to: <ol style="list-style-type: none"> <li>a. Eliminate the restriction that the notional amount does not exceed the amount of beneficial interests and is not expected to exceed them subsequently.</li> <li>b. Eliminate the restriction that the derivative instrument must relate to and partly or fully but not excessively counteract some risk associated with those beneficial interests or the related transferred assets.</li> </ol> </li> </ol>            | Alternative<br>1 |

|  |  |                                 |  |
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|  |  | c. Consider other alternatives. |  |
|--|--|---------------------------------|--|