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Proposed Accounting Standards Update, *Subsequent Events* (Topic 855), Amendments to Certain Recognition and Disclosure Requirements (File Reference No. 1760-100)

Dear Mr. Golden:

We appreciate the opportunity to comment on the Proposed Accounting Standards Update, *Subsequent Events* (Topic 855), Amendments to Certain Recognition and Disclosure Requirements ("Proposed ASU"). We support the proposed amendments to Accounting Standards Codification Topic 855, *Subsequent Events* (ASC 855), that simplify the disclosure requirements for entities that file or furnish financial statements with the Securities and Exchange Commission (SEC). We encourage the Board to act on those items as quickly as possible, so that the amendments would be effective for entities reporting on interim or annual periods ended on 31 December 2009. Note that the largest SEC registrants must file quarterly and annual reports within 40 and 60 days after the end of the period, respectively.

Please refer to the Attachment to this letter for our detailed comments and suggestions in response to the questions in the Proposed ASU.

We also provide a comment about an implementation issue that affects many nonpublic entities that file their financial statements with a government agency. We suggest that in response to this issue the FASB revise ASC 855 such that all companies that do not file or furnish their financial statements with the SEC evaluate subsequent events through the date those financial statements are available to be issued (even if "widely distributed"). However, we do not believe that the Board should delay issuing amendments related to entities that file or furnish their financial statements with the SEC while it considers this implementation issue.

We would be pleased to discuss our comments with the Board or its staff at your convenience.

Very truly yours,

Ernst + Young LLP



Attachment

Responses to Questions in the Proposed Accounting Standards Update, *Subsequent Events* (Topic 855), Amendments to Certain Recognition and Disclosure Requirements Issue 1: Do the amendments to paragraph 855-10-50-1 assist in clarifying which date, if any, an entity is required to disclose when evaluating subsequent events?

The amendments in ASC 855-10-50-1 are clear that an entity that files or furnishes its financial statements with SEC is not required to disclose the date through which it evaluated subsequent events. We support this change to ASC 855, because we believe that there is sufficient transparency regarding an entity's subsequent events evaluation through the SEC's EDGAR database and the SEC's requirements that filings with the SEC must not be misleading as of the date they are filed with the SEC.¹

In many situations, an entity's financial statements may be filed or furnished with the SEC by another entity. The application of the proposed guidance in ASC 855-10-25-1A and 50-1 is not clear in those circumstances. For example, Rules 3-05, 3-09, 3-10, 3-14, and 3-16 of SEC Regulation S-X require an SEC registrant to file the financial statements of another entity under certain circumstances, e.g., the financial statements of an acquired business (Rule 3-05) or of a significant investee accounted for under the equity method (Rule 3-09). Since the acquired business itself does not file the financial statements, it is not clear how to apply the proposed guidance. Consider the following examples:

SEC Registrant A acquires Company Z in February 20X1. Company Z is not an SEC registrant and does not regularly file or furnish its financial statements with the SEC. Company Z had not yet prepared its financial statements for 20X0. Because the original issuance of those financial statements will be in a filing with the SEC, we would interpret proposed ASC 855-10-25-1A and 50-1 such that Company Z would not disclose the date through which subsequent events were evaluated in its 20X0 financial statements. However, the proposed guidance is not clear in that situation, because Company Z does not file or furnish its financial statements with the SEC (rather, SEC Registrant A files Company Z's financial statements), and some may conclude that Company Z would disclose the date through which subsequent events were evaluated.

It is also not clear how to address a situation in which an entity had already prepared its financial statements and disclosed the date through which it evaluated subsequent events when those financial statements are subsequently filed or furnished with the SEC:

SEC Registrant B acquires Company Y in June 20X1. Company Y is not an SEC registrant and does not regularly file or furnish its financial statements with the SEC. Company Y had already prepared its financial statements for 20X0 and disclosed the date through which subsequent events were evaluated in accordance with ASC 855-10-50-1. We believe that Company Y's financial statements should continue to disclose the date through which it

 $^{^{1}}$ Specifically, Rules 10b-5 and 12b-20 under the Securities Exchange Act of 1934 and General Instruction C(3) to Form 10-K.



evaluated subsequent events in its 20X0 financial statements filed with the SEC because the financial statements were originally issued or available to be issued with that disclosure and the financial statements have not been "reissued" as defined in the Proposed ASU. Continuing to disclose the date that the financial statements were issued or available to be issued communicates the date through which Company Y could have recognized a subsequent event in its financial statements. If the date were no longer disclosed, the user of the financial statements would not have a basis for understanding Company Y's subsequent events evaluation and may erroneously think that Company Y evaluated subsequent events through the date that its financial statements were filed with the SEC. However, the proposed guidance is not clear in that situation.

Similar issues may also arise with respect to the financial statements of insurance entities, including the financial statements of sponsors, separate accounts and variable annuity contracts whose financial statements are filed on Form N-4 with the SEC.

We recommend that the Board clarify these situations in which SEC registrants file or furnish the financial statements of non-SEC registrants with the SEC.

Issue 2: Do the amendments to paragraph 855-10-50-4 better clarify when, if ever, an entity is required to disclose the date through which subsequent events were evaluated when issuing restated financial statements?

The proposed changes to ASC 855-10-50-4 define "restated financial statements" as

- ... financial statements revised as a result of either of the following:
 - a. The correction of an error
 - b. The retrospective application of US GAAP.

The ASC's Master Glossary currently defines both "restatement" and "retrospective application" as follows:

Restatement - The process of revising previously issued financial statements to reflect the correction of an error in those financial statements.

Retrospective application - The application of a different accounting principle to one or more previously issued financial statements, or to the statement of financial position at the beginning of the current period, as if that principle had always been used, or a change to financial statements of prior accounting periods to present the financial statements of a new reporting entity as if it had existed in those prior years.

We recommend that the final ASU use existing definitions in the Master Glossary to articulate this concept, rather than create new ones and possibly confuse the meanings of the existing terms. In addition, we recommend clarifying that the FASB intended that an entity would disclose two dates in this situation. Accordingly, we suggest the following changes to the proposed language in ASC 855-10-50-4:



> Restated Reissuance of Financial Statements

855-10-50-4 Unless the entity files or furnishes financial statements with the SEC [or other wording developed in response to our comments above], Aan entity shall disclose the dates through which subsequent events have been evaluated in both originally issued or available to be issued financial statements and the restated financial statements that have been reissued and, unless the entity files or furnishes financial statements with the SEC. Restated financial statements include financial statements revised as a result of either of the following:

- a. The correction of A restatement to correct an error
- b. The retrospective application of US GAAP.

Restated financial statements are reissued financial statements. See paragraph 855-10-25-4 for guidance on the recognition of subsequent events in reissued financial statements.

Issue 3: Is the proposed effective date operational and are the transition provisions appropriate?

The proposed effective date should clarify that the amendments are effective for all financial statements that have not yet been issued or available to be issued upon issuance of the final Accounting Standards Update. Otherwise, it is not clear whether the amendments are effective prospectively for financial statements covering periods that end after the final Accounting Standards Update is issued or for all financial statements that have not yet been issued or available to be issued. We believe that the Board's intent was the latter and suggest that the final Accounting Standards Update clarify that intent.

Other

Implementation issues related to financial statements not filed with the SEC

Since the Board issued Statement 165, *Subsequent Events*, we have become aware of several issues with the requirement that entities that do not file or furnish their financial statements with the SEC, but still "widely distribute" their financial statements, evaluate subsequent events through the date that the financial statements are issued. These issues primarily relate to entities that are required to provide their financial statements to a state or Federal government agency. These filing requirements often have deadlines several months after the balance sheet dates, e.g., 15 October for employee benefit plans required to be filed with the US Department of Labor. Other examples include hospitals and not-for-profit entities that are required to file financial statements with state agencies or with other agencies of the Federal government.

Since these entities are considered to widely distribute their financial statements by virtue of their being available to the public from the respective agencies (sometimes through a publicly available website), they must evaluate subsequent events through the date that the financial statements are





issued. As defined, financial statements are "considered issued when they are widely distributed to shareholders and other financial statement users for general use and reliance in a form and format that complies with GAAP." Consider the following examples:

Hospital C must file its financial statements, along with a state-mandated data collection form, with a state agency within 150 days of its year-end. The state agency posts all submissions from hospitals on its website, which is available to the public. Hospitals may not submit financial statements without the data collection form. Hospital C's audited financial statements are typically complete within 80 days of its year end, but its processes do not allow for the data collection form to be completed until shortly before the state deadline. Hospital C also has outstanding bank debt and must provide its audited financial statements to the bank within 90 days of year-end.

Since the financial statements are not widely distributed until they are filed with the state agency, Hospital C cannot prepare GAAP financial statements for its lender before that filing, because it must continue to evaluate subsequent events through the filing with the state agency.

Employee benefit plans must submit audited financial statements and a Form 5500 to the US Department of Labor by 15 October of the following year. Beginning in 2010, the Department of Labor will post the financial statements on its website. The financial statements cannot be submitted without the Form 5500.

Since the financial statements are not issued until submission to the Department of Labor, the entity must evaluate subsequent events up to the submission to the Department of Labor. Simply submitting the financial statements and Form 5500 earlier may not be practicable. Many entities manage these filing requirements around other processes in their organization, e.g., quarterly press releases, SEC reporting and IRS deadlines. Requiring preparers and their auditors to evaluate subsequent events through the submission to the Department of Labor also may not be practicable in many situations due to staffing constraints both for preparers and their auditors, as well as other preparation requirements.

We recommend that the Board remove the requirement that entities with a current expectation of widely distributing their financial statements evaluate subsequent events through the date that the financial statements are issued. Instead, the Board should allow all entities that do not file or furnish their financial statements with the SEC to evaluate subsequent events through the date that the financial statements are available to be issued, with disclosure of that date. We believe that this approach is more consistent with the Board's rationale for developing the concept of available to be issued–specifically, the Board noted that some entities may not "may not widely distribute those financial statements *upon completion*" [*emphasis* added] (Statement 165, paragraph A9). While the financial statements in the examples above are widely distributed, they are not widely distributed "upon completion."

The Board also noted that evaluating subsequent events through the date the financial statements are available to be issued would allow entities to avoid evaluating "subsequent events for an extended period of time following the completion of the financial statements" (Statement 165, paragraph A11). In the examples above, the subsequent events period would be unnecessarily



extended such that subsequent annual periods would not necessarily reflect the financial reporting effects of events that occurred in those periods because those effects would have been recognized in the previous period.

Further, allowing all entities that do not file or furnish financial statements with the SEC to evaluate subsequent events through the date that financial statements are available to be issued would be more consistent with the Board's evaluation of the benefits and costs of Statement 165:

Furthermore, by modifying the definition of subsequent events to include the notion of financial statements available to be issued, this Statement provides improved guidance on how to address situations where financial statements may not be audited or may not be widely distributed after the financial statements are prepared—as may be the case with some nonpublic entities [emphasis added]. (Statement 165, paragraph A15)

Because this Statement does not change the principles underlying AU Section 560, the Board does not anticipate any significant change in financial reporting. The Board believes that this Statement does not impose any significant costs on its constituents. (Statement 165, paragraph A16)

Not-for-profit entities, employee benefit plans, and various other types of entities, as well as their auditors and other professional service providers, would have to make significant changes to current practices in order to comply with the requirements of ASC 855 as currently in effect, and there would be significant costs associated with those changes.

We do not believe that there would be any significant decrease in the benefits to users of financial statements resulting from requiring all entities that do not file or furnish their financial statements with the SEC to evaluate subsequent events through the date that the financial statements are available to be issued. The disclosure of the date that the financial statements were available to be issued in the financial statements will provide users with the necessary information to facilitate their evaluation of subsequent events.

Finally, allowing all entities that do not file or furnish financial statements with the SEC to evaluate subsequent events through the date that the financial statements are issued with disclosure of that date is more consistent with the guidance in IAS 10, *Events after the Reporting Period*. IAS 10 requires an entity to evaluate subsequent events through the date that the financial statements are authorized for issue, and entities are required to disclose the date of that authorization, even if those financial statements are provided to a regulator at a later date.

Suggested clarification to ASC 855-10-50-1(b)

As proposed, ASC 855-10-50-1 requires disclosure of both of the following:

- a. The date through which **subsequent events** have been evaluated
- b. Whether that date is either of the following:
 - 1. The date the financial statements were issued
 - 2. The date the financial statements were available to be issued. [Emphasis added.]



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Since the financial statements must have been evaluated through one of those dates, we suggest deleting the phrase "either of the following" and insert "or" after "financial statement were issued."