Emerging Issues Task Force
Agenda Report
September 6, 2012 Agenda Decision

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Emerging Issues Task Force Agenda Committee
Decision on Potential New Issue
Discussion Date: September 6, 2012

1. Measurement of the Deferred Compensation Obligation in a Plan B, C, or D Deferred Compensation Arrangement involving a Rabbi Trust

Background

1. Rabbi trusts are contractual trusts generally established by a reporting entity to fund compensation for a select group of employees. To qualify as a rabbi trust for income tax purposes, the terms of the trust agreement must explicitly state that the assets of the trust are available to satisfy the claims of the general creditors of a reporting entity in the event of bankruptcy or liquidation. A rabbi trust structure for compensation purposes is used as a tax planning strategy for the employees, since income taxes on the portion of compensation held in the rabbi trust are deferred until they are paid out to the employees. For reporting purposes, a rabbi trust is consolidated in the financial statements of the sponsoring employer (reporting entity). The allowable assets used to fund a rabbi trust are specified in each trust agreement, and generally consist of cash, securities and/or a reporting entity's stock. Other assets that also can be held in a rabbi trust include real estate, property, plant and equipment, factored receivables, leasing agreements of a lessor, and keyman life insurance.

2. In March 1998, the FASB issued EITF Issue No. 97-14, "Accounting for Deferred Compensation Arrangements Where Amounts Earned Are Held in a Rabbi Trust and Invested," which has since been codified in Topic 710, Compensation—General. Paragraph 710-10-25-15 defines four types of deferred compensation arrangements involving rabbi trusts:

a. Plan A—The plan does not permit diversification and must be settled by the delivery of a fixed number of shares of employer stock.

b. Plan B—The plan does not permit diversification and may be settled by the delivery of cash or shares of employer stock.

c. Plan C—The plan permits diversification; however, the employee has not diversified (the plan may be settled in cash, shares of employer stock, or diversified assets).

d. Plan D—The plan permits diversification and the employee has diversified (the plan may be settled in cash, shares of employer stock, or diversified assets).

3. For Plans A, B, and C, which only hold the reporting entity's (employer) stock as assets, Topic 710 requires that the stock held by the rabbi trust should be classified as equity in the reporting entity's consolidated financial statements in a manner similar to the way in which treasury stock is accounted for under Subtopic 505-30, Equity—Treasury Stock. Subsequent changes in the fair value of the stock are therefore not recognized. For Plan D, the guidance in Topic 710 requires the assets (other than the reporting entity's stock, which should be accounted for as treasury stock similar to Plans A, B, and C) to be accounted for in accordance with the U.S. GAAP applicable for the particular asset.

4. Topic 710 also requires that the deferred compensation obligation for Plan A should be initially recognized as an equity instrument, with no subsequent changes in the **fair value of the amount owed** to the employee recognized in the consolidated financial statements. For Plans B, C, and D, paragraphs 710-10-35-3 through 35-4 require the deferred compensation obligation should be classified as a liability, and "adjusted with a corresponding charge (or credit) to compensation cost, to reflect the changes in the **fair value of the amount owed** to the employee" (emphasis added).

5. Some had questioned whether the measurement of the deferred compensation obligation in a rabbi trust deferred compensation arrangement as described in Issue 97-14 is a fair value measurement in accordance with FASB Statement No. 157, *Fair Value Measurements* (now codified in Topic 820, Fair Value Measurement). In the FASB's project, Technical Corrections and Improvements, the staff was asked to clarify, through a technical correction, how the deferred compensation obligation should be measured in a Plan D deferred compensation arrangement. The technical correction was addressed as follows in the resulting proposed Accounting Standards Update, which was issued in October 2011:

> 95. The following amendments to paragraphs 710-10-35-4 and 710-10-45-2 clarify the measurement objective for deferred compensation obligations for Plan D in paragraph 710-10-35-4. The measurement objective is to reflect the amounts

owed to the employee, which may be the fair value of the assets held in the rabbi trust for the benefit of the employee, assuming the employer has no obligation to the employee other than to transfer those assets.

96. Amend paragraphs 710-10-35-4 and 710-10-45-2, with no link to a transition paragraph, as follows:

710-10-35-4 The deferred compensation obligation shall be adjusted, with a corresponding charge (or credit) to compensation cost, to reflect subsequent changes in the measurement~~fair value~~ of the corresponding assets held by the rabbi trust (see paragraph 710-10-25-18), unless the employer has another obligation to the employee~~amount owed to the employee~~.

710-10-45-2 For Plan D only, changes in~~ the fair value of~~ the deferred compensation obligation shall not be recorded in other comprehensive income, even if changes in the fair value of the assets held by the rabbi trust are recorded, pursuant to Subtopic 320-10, in other comprehensive income.

During redeliberations, the technical correction resulting in these proposed amendments was removed from the Technical Corrections and Improvements project due to questions raised and differing views expressed during the comment period for the proposed Update. One respondent did not believe that the measurement objective of the deferred compensation obligation in the rabbi trust arrangement should be fair value as defined in Topic 820, because the definition of fair value was not the same when the consensus on Issue 97-14 was reached (October 1998). Another respondent commented that the proposed amendment would improperly alter U.S. GAAP and the language should not be changed. A third respondent disagreed with the statement that the measurement objective of the deferred compensation obligation in the rabbi trust arrangement is "linked" to the value of the corresponding assets. One respondent also questioned why the proposed technical correction was only being made to the paragraphs describing measurement of Plan D deferred compensation obligations, when the requirements are the same for subsequent measurement of Plan B and Plan C deferred compensation obligations.

6. While the Technical Corrections project highlighted diversity in views, the staff did not note diversity in practice. Through limited outreach performed, the staff noted that most reporting entities link the measurement of the deferred compensation obligation to the fair value of the assets. However, there is diversity in practice related to financial statement disclosures because some reporting entities include both the assets held in the rabbi trust and the deferred

compensation obligation in the fair value hierarchy disclosures, while other reporting entities only include the assets held in the rabbi trust in the fair value hierarchy disclosures.

7. As a result, questions still exist about the measurement of the deferred compensation obligation in a rabbi trust arrangement. Specifically, whether or not the measurement objective of the recognized liability for the deferred compensation obligation is the fair value, measured in accordance with Topic 820, of the amount owed to the employees.

Scope

8. This issue applies to all reporting entities that have a Plan B, C, or D deferred compensation arrangement involving a rabbi trust.

Accounting Issue and Alternatives

How a reporting entity should measure the deferred compensation obligation in a Plan B, C, or D deferred compensation arrangement involving a rabbi trust.

View A: A reporting entity would measure the deferred compensation obligation at fair value in accordance with Topic 820.

9. Topic 820 requires reporting entities to reflect nonperformance risk and their own credit risk in measuring the fair value of a liability. Proponents of View A believe that those factors should be considered in the measurement of the deferred compensation obligation, as the assets held in a rabbi trust must be made available to the general creditors in the event of a reporting entity's liquidation, and the risk can exist that the obligation to the employee may not be fulfilled.

10. Proponents of View A also believe that measuring the deferred compensation obligation at fair value in accordance with Topic 820 reflects the original intent of Issue 97-14, as Subtopic 710-10 explicitly states that "the deferred compensation obligation shall be adjusted with a corresponding charge (or credit) to compensation cost, to reflect the changes in the **fair value** of the amount owed to the employee" (emphasis added).

11. Opponents of View A believe that the fair value of a deferred compensation obligation is linked to the fair value of the assets held in a rabbi trust. They believe that this view is consistent with the transition guidance included in Issue 97-14, which states that "for Plan D, the diversified assets held by the rabbi trust should be recorded at fair value at September 30, 1998 with a corresponding amount recorded as a deferred compensation liability." Additionally, opponents of View A note that deferred compensation guidance was not included in either Appendix D of Statement 157 that lists the existing pronouncements included in the scope of Statement 157, or Appendix E of Statement 157 that lists the amendments to existing pronouncements.

12. Opponents of View A believe that measuring the deferred compensation obligation in a compensation arrangement involving a rabbi trust at fair value is inconsistent with how other deferred compensation obligations are measured. Paragraphs 710-10-30-1 through 30-2 require amounts accrued for deferred compensation arrangements to be measured at the net present value of the future benefits due to the employee. Pension obligations within the scope of Topic 715, Compensation—Retirement Benefits, are also measured using present value techniques, even though the related plan assets are measured at fair value in accordance with Topic 820. Similarly, post-employment benefit obligations within the scope of Topic 712, Compensation—Nonretirement Postemployment Benefits, are not measured at fair value, and the measurement objective of share-based payments is defined as "fair-value-based" in paragraph 718-10-30-2, which is not the same as fair value defined in Topic 820.

View B: The deferred compensation obligation shall be measured as the fair value of the corresponding assets held in the rabbi trust plus any additional amounts expected to be paid.

13. Proponents of View B believe that the original intent of Issue 97-14 was to "link" the value of the deferred compensation obligation to the fair value of the assets, including the reporting entity's stock held in the rabbi trust. Additionally, proponents of View B note that rabbi trust's deferred compensation arrangements are contractual obligations that tie the liability directly to the value of the investments held in the rabbi trust. The fair value of the assets held in the rabbi trust is the amount that the reporting entity owes to the participating employees. Therefore, reporting entities should value the assets (including the reporting entity's stock) in accordance

with Topic 820, and recognize the deferred compensation obligation at an amount equal to that value, plus any additional amounts owed to the employee that are not funded by the assets in the rabbi trust.

14. Proponents of View B also believe that this approach is consistent with other forms of non-cash compensation, which are generally measured at the fair value of the non-cash consideration at the settlement/delivery date.

15. Opponents of View B agree with proponents of View A that Issue 97-14 requires reporting entities to measure the assets held in the rabbi trust using generally accepted accounting principles applicable to the corresponding assets, while measuring the deferred compensation obligation at fair value.

View C: The deferred compensation obligation shall be measured as the carrying value of the corresponding assets held in the rabbi trust, plus any additional amounts expected to be paid.

16. Proponents of View C note that the assets held in a rabbi trust may or may not be measured at fair value. Rabbi trust assets may hold assets that are not measured at fair value, such as equity method investments, corporate owned life insurance, real estate, equipment, or other assets in addition to the reporting entity's stock. Paragraph 710-10-25-18 requires reporting entities to measure assets held by the rabbi trust in accordance with generally accepted accounting principles applicable for the particular asset.

17. Proponents of View C also believe that since the rabbi trust is simply holding the investment on behalf of the employee, the deferred compensation obligation should be "linked" to the value of the corresponding assets and should represent the accounting cost of the assets to the company.

18. Opponents of View C believe that measuring the deferred compensation obligation based on the carrying value of the underlying assets is generally inconsistent with how deferred compensation obligations are measured. Additionally, opponents of View C note that Plan B, C,

and D rabbi trust deferred compensation arrangements are often settled in cash rather than by delivering the actual assets in the trust, and measurement of the payment to the employee is based on the fair value of the assets, not the carrying value.

Agenda Decision: ***This issue was not added to the EITF agenda and will be addressed in the FASB's Technical Corrections and Improvements project.***

2. Accounting for Service Concession Arrangements

Background

1. Service concession arrangements are contracts under which a transferor (a governmental entity) grants a nongovernmental entity (an operating entity), the right to operate, and/or maintain the governmental entity's infrastructure assets (for example, airports, roads, bridges, tunnels, prisons, and hospitals). The infrastructure may already exist or may be constructed by the operating entity during the period of the service concession arrangement. If the infrastructure already exists, the operating entity may be required to provide significant upgrades as part of the arrangement. The governmental entity controls any residual interest in the assets at the end of the term of the arrangement. These arrangements are commonly referred to as "public-to-private" service concession contracts.

2. In a typical service concession contract, an operating entity operates and maintains for a period of time the infrastructure that will be used to provide the public service. In exchange, the operating entity may receive payments from the governmental entity to perform those services. Such payments may be paid as the services are performed or over an extended period of time. Alternatively, the operating entity may be given a right to charge the public (the third-party users) to use the infrastructure. The contract may also contain an unconditional guarantee from the governmental entity under which the governmental entity would provide a guaranteed minimum payment if the fees collected from the public do not reach a specified minimum threshold. The governmental entity controls and has the ability to modify or approve the services the operating entity must provide using the assets, to whom the services will be provided, and the price that will be paid for the services. The contract sets out performance standards, pricing mechanisms, and arrangements for arbitrating disputes.

3. In addition, the operating entity may be required to make an upfront cash payment to the governmental entity in exchange for the right to use and operate the governmental entity's infrastructure. In such contracts, the operating entity is generally given the right to charge users of the infrastructure.

4. Service concession contracts can take many different forms. In addition to the above, other common aspects of service concession contracts include:

a. The operating entity provides initial consideration to the governmental entity in the form of constructing the infrastructure for the governmental entity, providing significant upgrades to the governmental entity's existing infrastructure, making a cash payment to the governmental entity, or a combination of these kinds of consideration.
b. The contracted services provided by the operating entity to the public on behalf of the governmental entity must meet minimum performance standards.
c. At the end of the term of the contract, the governmental entity controls the residual interest in the infrastructure and may specify the minimum condition(s) that the infrastructure must be in at the end of the term.

5. For example, an operating entity might agree to a service concession contract for a toll road for public use under which the operating entity agrees to the following conditions:

a. Making an upfront payment to the governmental entity.
b. Operating and keeping the roadway and toll booths in good working condition. In addition, the operating entity must resurface the roadway every five years and have at least two toll booths open at all times.
c. Receiving the right to collect, for its own interest, charges from third party users (motorists) of the toll road. Pricing is established in the agreement and the operating entity must seek approval from the governmental entity to change the toll charged per motor vehicle using the roadway.
d. At the end of the contract, conveying any residual interest in the roadway and toll booths to the governmental entity.

6. U.S. GAAP does not have accounting guidance that specifically addresses accounting for service concession contracts. Depending on the terms of the service concession contract, some operating entities may account for their rights over the infrastructure in a service concession contract as a lease and apply Topic 840, Leases. Other entities, in the absence of U.S. GAAP,

may apply by analogy, the principles in IFRIC 12, *Service Concession Arrangements*, and account for their rights in a service concession contract as an intangible asset, a financial asset, or both.

Scope

7. This issue applies to the accounting for an operating entity that enters into a service concession contract with a governmental entity. This issue applies to the accounting by operating entities when both of the following conditions exist:

a. The governmental entity controls or has the ability to modify or approve what services the operating entity must provide with the infrastructure, to whom it must provide them, and at what price

b. The governmental entity controls, through ownership, beneficial entitlement, or otherwise any residual interest in the infrastructure at the end of the term of the arrangement.

Accounting Issue and Alternatives

Issue: How an operating entity should account for a service concession arrangement within the scope of this issue.

View A: The operating entity should account for a service concession arrangement as a lease under Topic 840.

8. Under View A, an operating entity would evaluate whether the arrangement contains a lease. After the determination has been made that the arrangement contains a lease, an entity would need to determine (a) what elements of the arrangement represent lease payments (that is, separate lease elements from non-lease elements) and (b) the classification of the lease elements as operating or capital. Non-lease elements of the arrangement may represent expenses (for example, costs to operate under the arrangement), assets (for example, improvements whose benefits span more than one period), revenues (for example, fees for services provided), or other

items. Other elements of the arrangement that are not within the scope of Topic 840 shall be accounted for in accordance with other generally accepted accounting principles.

9. Topic 840 defines a lease "as an agreement conveying the right to use property, plant, or equipment (land and/or depreciable assets) usually for a stated period of time." Paragraphs 840-10-15-3 and 840-10-15-6 provide guidance that an entity must evaluate to determine whether an arrangement is a lease and indicate, in part, the following:

> **840-10-15-3** The evaluation of whether an arrangement contains a lease within the scope of the Leases Topic shall be based on the **substance of the arrangement** using the following guidance. [Emphasis added.]
>
> **840-10-15-6** An arrangement conveys the right to use property, plant, or equipment if the arrangement conveys to the purchaser (lessee) the right to control the use of the underlying property, plant, or equipment. The right to control the use of the underlying property, plant, or equipment is conveyed if any of the following conditions is met:
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> a. The purchaser has the ability or right to operate the property, plant, or equipment or direct others to operate the property, plant, or equipment in a manner it determines while obtaining or controlling more than a minor amount of the output or other utility of the property, plant, or equipment. The purchaser's ability to operate the property, plant, or equipment may be evidenced by (but is not limited to) the purchaser's ability to hire, fire, or replace the property's operator or the purchaser's ability to specify significant operating policies and procedures in the arrangement with the owner-seller having no ability to change such policies and procedures. A requirement to follow prudent operating practices (or other similar requirements) generally does not convey the right to control the underlying property, plant, or equipment. Similarly, a contractual requirement designed to enable the purchaser to monitor or ensure the seller's compliance with performance, safety, pollution control, or other general standards generally does not establish control over the underlying property, plant, or equipment.
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> b. The purchaser has the ability or right to control physical access to the underlying property, plant, or equipment while obtaining or controlling more than a minor amount of the output or other utility of the property, plant, or equipment.
>
> c. Facts and circumstances indicate that it is remote that one or more parties other than the purchaser will take more than a minor amount of the output or other utility that will be produced or generated by the property, plant, or

equipment during the term of the arrangement, and the price that the purchaser (lessee) will pay for the output is neither contractually fixed per unit of output nor equal to the current market price per unit of output as of the time of delivery of the output.

10. Proponents of View A believe that an entity must evaluate whether the service concession arrangement conveys the right to use the property, plant, or equipment that is specified in the arrangement. In many service concession arrangements, either (a) the governmental entity is making a tangible item exclusively available to the operating entity for its use in providing a service or (b) the operating entity is receiving substantially all of the economic output from the physical asset during the term of the arrangement (and price paid is not fixed per unit of output or at current market price per unit of output). As such, proponents of View A observe that service concession arrangements would generally meet one or more of the conditions in paragraph 840-10-15-6 and the arrangement would be in the scope of the lease guidance.

11. The portion of the service concession arrangement that qualifies as a lease within the scope of the lease guidance would be evaluated in accordance with Subtopic 840-10 to determine whether it is an operating or capital lease. Paragraph 840-10-25-25[1] contains guidance that requires an entity to classify a lease as an operating lease for leases involving facilities owned by a governmental unit or authority when certain criteria are met. Proponents of View A believe that the existence of the lease classification guidance for facilities owned by a governmental unit or authority further supports the view that service concession arrangements were intended to be accounted for as leases.

12. Opponents of View A observe that the operating entity only has the **right to access** the governmental entity's infrastructure to provide the services specified in the contract. They do not believe that the operating entity has a **right to use** (that is, control of) the governmental entity's infrastructure. They point out that the governmental entity generally maintains control[2] of all of the following:

[1] Formerly FASB Interpretation No. 23, *Leases of Certain Property Owned by a Governmental Unit or Authority*.
[2] Control might be maintained by contract or through a regulator.

a. The services that the operating entity must provide using the governmental entity's infrastructure.

b. The recipient of the output or other utility that is produced or generated by the operating entity's services (that is, the government decides who is permitted to use the infrastructure). For example, prisons only accommodate members of the public that are incarcerated by law and cannot be accessed by other members of the public.

c. The price that the operating entity is able to charge users of the services.

Additionally, opponents observe that the governmental entity will generally control any residual interest in its infrastructure at the end of the contract's term. That is, the operating entity will not have a residual interest through ownership, beneficial entitlement, or otherwise.

13. Opponents of View A also believe that the analysis of whether a service concession contract should be accounted for as a lease should be determined based on whether or not the operator controls the asset that is being used to provide the public service. This is consistent with the definition of an asset in FASB Concepts Statement No. 6, *Elements of Financial Statements,* which states that an asset is a resource *controlled* by an entity.[3] The operator cannot control access to the infrastructure because the governmental entity determines who is able to gain access to the infrastructure.

14. Opponents of View A state that the notion of control is also used in the definition of a lease in the FASB and IASB joint project on leases. The FASB staff agrees with the opponents of View A and does not believe that a service concession contract would meet the definition of a lease under the tentative decisions reached in the FASB and IASB's joint leases project. Under those tentative decisions, a lease would be defined as a contract in which the right to use a specified asset (the underlying asset) is conveyed, for a period of time, in exchange for consideration. In relation to applying that definition, the tentative decisions stipulate that:

[3] The definition of an asset in Concepts Statement 6 is: "Assets are probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events" (footnote reference omitted). One of the essential characteristics of an asset in Concepts Statement 6 is that "a particular entity can obtain the benefit and control other's access to it." (Refer to paragraphs 25-27 in Concepts Statement 6.)

a. An entity would need to determine whether a contract contains a lease on the basis of the substance of the contract, by assessing whether:
   i. The fulfillment of the contract depends on the use of a **specified asset**; and
   ii. The contract conveys the **right to control** the use of a specified asset for a period of time.

b. **A contract would convey that right to control the use if the customer has the ability to direct the use, and receive the benefit from use, of a specified asset throughout the lease term**

c. A specified asset refers to an asset that is explicitly or implicitly identifiable.

d. A physically distinct portion of a larger asset of which a customer has exclusive use is a specified asset. A capacity portion of a larger asset that is not physically distinct (for example, a capacity portion of a pipeline) is not a specified asset. [Emphasis added.]

15. The FASB staff believes that under the tentative decisions in the joint leases project, most service concession contracts would meet the specified asset test as described above because in the majority of service concession contracts, the infrastructure can be identified. However, service concession contracts would generally not meet the control test because the operating entity does not direct how, when, and in what manner the infrastructure will be used and does not direct the use of the infrastructure. The operating entity also does not have the ability to determine what construction/upgrade services are to be performed.

16. Directing the use of an asset, as described in the definition of control above, means that the customer (that is, the operating entity) has the ability to make decisions that significantly affect the benefit received from the asset. Some indicators of that ability to make decisions include the power to determine the manner in which the asset is used, how it is used, and how it might be used in connection with other assets to generate benefits. However, if the customer can specify only the output, but has little say in the input or processes involved in creating the output, the customer may not have the ability to direct the use of the asset. Under the tentative decisions in the joint leases project, indicators are provided to assist entities in making the determination of

whether the customer has the right to control an asset. Those indicators, to be considered together and not in isolation, include:

a. Physical access: The customer is able to control physical access to the specified asset
b. Customization: The asset is customer-specific and the customer is involved in its design
c. Controlling benefits: The customer controls the right to obtain substantially all of the benefits from the asset during the contract term.

17. The evaluation of control under the tentative decisions in the joint leases project is broader based on the "benefits" from the asset. That is consistent with IFRIC 12, in which the IASB decided that if the operating entity does not have the right to control the use of the underlying asset, it should, therefore, not recognize the arrangement as a lease.

View B: The operating entity should not account for a service concession contract as a lease. The accounting for the operating entity's rights under the service concession contract represents an intangible asset, a financial asset, or both.

18. Proponents of View B believe that the operating entity does not have the right to control the use of the governmental entity's infrastructure and therefore the transaction should not be accounted for as a lease. Instead, the operating entity's rights under the contract with the governmental entity should be recorded as a financial asset, an intangible asset, or a combination of the two.

<u>Financial Asset Model</u>

19. Proponents of View B believe that the contractual right to receive cash from the governmental entity in a service concession contract meets the definition of a financial asset.

20. Under the financial asset model, the operating entity receives a financial asset; specifically, an unconditional contractual right to receive a specified or determinable amount of cash or another financial asset from the governmental entity in return for constructing or upgrading a

public sector infrastructure, and then operating and maintaining the infrastructure for a specified period of time. The operating entity recognizes a financial asset to the extent that it has an unconditional contractual right to receive cash or another financial asset from or at the direction of the governmental entity for services. The financial asset shall be accounted for in accordance with existing accounting guidance (for example, Topic 310, Receivables). The operating entity has an unconditional right to receive cash if the governmental entity contractually guarantees to pay the operating entity either of the following:

a. Specified or determinable amounts
b. The shortfall, if any, between amounts received from users of the public service and specified or determinable amounts, even if payment is contingent on the operating entity ensuring that the infrastructure meets specified quality or efficiency requirements.

21. The Master Glossary of the Financial Accounting Codification defines a financial asset as:

> Cash, evidence of an ownership interest in an entity, or a contract that conveys to one entity a right to do either of the following:
>
> a. Receive cash or another financial instrument from a second entity
> b. Exchange other financial instruments on potentially favorable terms with the second entity.
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> A financial asset exists if and when two or more parties agree to payment terms and those payment terms are reduced to a contract. To be a financial asset, an asset must arise from a contractual agreement between two or more parties, not by an imposition of an obligation by one party on another.

<u>Intangible Asset Model</u>

22. Other proponents of View B believe that an operating entity should recognize an intangible asset when that entity has the right to future cash flows that are conditional based on usage by third parties (for example, each motor vehicle using a toll road).

23. Proponents of View B state that when a governmental entity does not guarantee a minimum amount to be received for the services, the operating entity does not have a contractual right to

receive cash even if that receipt is highly probable because the amounts are contingent on the extent to which the public uses the infrastructure. The operating entity has obtained a license (from the governmental entity) to charge fees (for example, collect tolls) from users based on their usage of the infrastructure. This license is an intangible asset because that right lacks physical substance and is not a financial asset.

24. Under the intangible asset model, the operating entity recognizes an intangible asset to the extent that it receives a right (a license) to charge users based on usage of the infrastructure asset. Consideration paid for this right may include construction or upgrade of the infrastructure and/or a cash payment to the governmental entity. A right to charge users is not an unconditional right to receive cash because the amounts are contingent on the extent to which the public uses the infrastructure. In the intangible asset model, the intangible asset is reduced by amortization rather than repayment. The intangible asset shall be accounted for in accordance with Subtopic 350-30, Intangibles—Goodwill and Other—General Intangible Other than Goodwill, and amortized over the period of the contract.

25. The Master Glossary defines an intangible asset as:

> Assets (not including financial assets) that lack physical substance. (The term intangible assets is used to refer to intangible assets other than goodwill.)

26. Proponents of View B also state that GASB Statement No. 60, *Accounting for Financial Reporting for Service Concession Arrangements,* specifies that a governmental operator should report an intangible asset to account for the rights to access the governmental entity's infrastructure and collect third-party fees. Proponents of View B believe that the guidance in GASB Statement 60 further supports the view that the operator should account for its right to charge users as an intangible asset.

<u>Both Financial Asset and Intangible Asset Model (Bifurcated Model)</u>

27. Proponents of View B believe that both a financial asset and an intangible asset may exist within a single contract. To the extent that the governmental entity has given an unconditional guarantee of payment for the construction, operation, or maintenance of the infrastructure asset,

the operating entity has a financial asset; and to the extent that the operating entity has the right to revenues from the users of the infrastructure above the amount guaranteed, the operator has an intangible asset.

28. The views of the proponents of View B can be summarized as follows:

Operating entity's rights	**Classification**	**Examples**
Unconditional, contractual right to receive cash or other financial asset from or at the direction of the governmental entity	Financial asset	• Operating entity receives a fixed amount from the governmental entity over the term of the arrangement
Amounts to be received are conditional on the extent of the use of the infrastructure asset	Intangible asset	• Operating entity has a right to charge users of the infrastructure asset over the term of the arrangement • Operating entity has a right to charge the governmental entity in proportion to usage of the infrastructure over the term of the arrangement with no minimum guarantee from the governmental entity
The operating entity's rights from the government are partly in the form of a financial asset and partly in the form of an intangible asset	Bifurcated model	• Operating entity receives a fixed amount from the governmental entity (financial asset) and a right to charge users of the infrastructure asset over the term of the arrangement with no minimum guarantee from the governmental entity (intangible asset) • Operating entity has a right to charge users of the infrastructure asset over the term of the arrangement, but any shortfalls between amounts received from users and a specified or

		determinable amount will be reimbursed by the governmental entity. The specified or determinable amount is the financial asset and the remainder is an intangible asset.

29. Proponents of View B observe that U.S. GAAP does not provide specific guidance to account for the rights and obligations of service concession contracts and believe that the model described in View B provides an accounting model that closely aligns with the economics of the transaction.

<u>**Agenda Decision:**</u> ***This Issue was added to the EITF agenda.***

FASB EMERGING ISSUES TASK FORCE
Proposed November 1, 2012 Meeting Agenda

Issue Number	Issue	Proposed Time	Staff Assigned
	Administrative Matters	8:30-8:45	Gupta
12-B	Not-for-Profit Entities: Personnel Services Received from an Affiliate for Which the Affiliate Does Not Seek Compensation	8:45-10:15	Goswami/ TBD
	* * * BREAK * * *	10:15-10:30	
12-F	Recognition of New Accounting Basis (Pushdown) in Certain Circumstances	10:30-12:00	Gupta/ Or
	* * * LUNCH * * *	12:00-1:00	
12-D	Accounting for Obligations Resulting from Joint and Several Liability Arrangements for which the Total Amount of the Obligation Is Fixed at the Reporting Date	1:00-2:00	Walsh/ Gupta
12-H	Accounting for Service Concession Arrangements	2:00-3:30	Gagnon/ Mottley