FINANCIAL ACCOUNTING STANDARDS BOARD
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July 12 and 17, 2013

TO: MEMBERS OF THE FASB EMERGING ISSUES TASK FORCE

Included are the final minutes of the June 11, 2013 meeting of the FASB Emerging Issues Task Force and an inventory of open issues for future EITF meetings (*updated*). Also included as exhibits are the Accounting Standards Updates for Issues 13-A and 13-C, and the proposed Accounting Standards Updates for Issues 12-G, 12-H, and 13-E.

Confidential marked versions of the minutes and the exhibits showing changes from the June 27, 2013 Fatal Flaw draft for the Accounting Standards Updates for Issues 13-A and 13-C, and the proposed Accounting Standards Updates for Issues 12-H and 13-E are being distributed under separate cover. Confidential marked versions of the minutes and the exhibit for the proposed Accounting Standards Update for Issue 12-G showing changes from the July 10, 2013 Fatal Flaw draft also are being distributed under separate cover. After your review, please discard the confidential marked versions.

Board Ratification
On Wednesday, June 26, 2013, the Board ratified the consensuses reached by the Task Force on Issues 13-A and 13-C. The Accounting Standards Updates for those Issues are expected to be posted to the FASB website the week of July 15, 2013. The Board also ratified the consensuses-for-exposure reached by the Task Force on Issues 12-G, 12-H, and 13-E. The Board approved 60-day exposure periods for each of the proposed Updates. The proposed Updates are expected to be posted to the FASB website the week of July 15, 2013.

The next EITF meeting is scheduled for September 13, 2013. The extra EITF meeting date reserved for July 18, 2013, will not be utilized.

Please call me at 203.956.5317 or Daghan Or at 203.956.5212 if you have any questions.

Sincerely,
Rahul Gupta
Project Manager
rgupta@fasb.org

Emerging Issues Task Force
Meeting Minutes
June 11, 2013

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MINUTES OF THE JUNE 11, 2013 MEETING
OF THE FASB EMERGING ISSUES TASK FORCE

Location: FASB Offices
401 Merritt 7
Norwalk, Connecticut

Tuesday, June 11, 2013
Starting Time: 8:30 a.m.
Concluding Time: 4:07 p.m.

Task Force Members Present:
Susan M. Cosper (Chairman)
John M. Althoff
Mark M. Bielstein
James G. Campbell
Terri Z. Campbell
Alexander M. Corl
Jackson Day
L. Charles Evans
Stuart H. Harden
Carl Kampel
* Mark LaMonte
Lawrence J. Salva
Matthew L. Schroeder
Ashwinpaul C. (Tony) Sondhi
Robert Uhl
Paul A. Beswick (SEC Observer) [1]
* Richard C. Paul (FinREC Observer)

Task Force Members Absent:
None

* For certain issues only.

[1] Participated by telephone.

Others at Meeting Table:

Leslie F. Seidman, FASB Board Member
Daryl E. Buck, FASB Board Member
Russell G. Golden, FASB Board Member
Thomas J. Linsmeier, FASB Board Member
R. Harold Schroeder, FASB Board Member
Marc A. Siegel, FASB Board Member
Larry W. Smith, FASB Board Member
Shelly C. Luisi, SEC Senior Associate Chief Accountant[2]
Rahul Gupta, FASB Project Manager
Daghan Or, FASB Practice Fellow
* Meredith Brown, FASB Practice Fellow
* Elizabeth Gagnon, FASB Project Manager
* Gautam Goswami, FASB Practice Fellow
* Christopher G. Irwin, FASB Practice Fellow
* Steven M. Kane, FASB Practice Fellow
* Stephen C. McKinney, FASB Practice Fellow
* Lauren Mottley, FASB Associate Practice Fellow
* Rosemarie Sangiuolo, FASB Project Manager
* Cullen D. Walsh, FASB Practice Fellow

* For certain issues only.

[2] Participated by telephone.

ADMINISTRATIVE MATTERS

- An FASB staff member announced that at its May 1, 2013 meeting the FASB Board made the following EITF agenda decisions regarding issues discussed at the April 26, 2013 EITF Agenda Committee meeting:

  - Issues added to the EITF agenda:
    - Determination of Whether a Performance Condition That Is Allowed to Be Met after the Requisite Service Has Been Provided by the Employee Is a Vesting Condition or a Nonvesting Condition
    - Reclassification of Collateralized Mortgage Loans upon a Troubled Debt Restructuring and Accounting for the Effect of a Federal Housing Administration Guarantee
  - Issues not added to the EITF agenda:
    - Application of Diluted EPS for Equity-Linked Contracts That Are Accounted for as Liabilities.

- An FASB staff member announced that any consensuses-for-exposure reached at this meeting and any consensuses-for-exposure reached at prior meetings that are affirmed as consensuses at this meeting will be considered by the Board for ratification and exposure for public comment or ratification and issuance as a final Accounting Standards Update, respectively, at the June 26, 2013 Board meeting.

- The EITF chairman announced that Mr. Daghan Or, FASB Practice Fellow, has been appointed to the position of EITF Coordinator replacing Rahul Gupta, FASB Practice Fellow. The EITF chairman thanked Mr. Gupta for his contribution.

- The EITF chairman announced the departure of the following FASB Fellows whose terms will be coming to an end in the upcoming months: Ms. Kristin Bauer, Mr. Steven M. Kane, Mr. Gautam Goswami, Mr. Cullen D. Walsh, Mr. Christopher G. Irwin, Mr. Shahid Shah, Mr. Rahul Gupta, Ms. Heather L. Harris, Ms. Lauren Alexander, and Ms. Jennifer Weiner. The EITF chairman thanked the departing Fellows for their service.

- An FASB staff member announced that the next regularly scheduled EITF meeting will be held on Friday, September 13, 2013. The EITF Agenda Committee meeting to be held in conjunction with the September EITF meeting has been scheduled for July 9, 2013. The Extra EITF meeting date reserved for July 18, 2013, will not be utilized.

- An FASB staff member announced the following proposed EITF meeting dates for 2014:

  - **Regular EITF Meeting Dates**
    March 13, 2014
    June 12, 2014
    September 18, 2014
    November 13, 2014

- **Extra EITF Meeting Dates If Needed**
  January 16, 2014
  May 15, 2014
  July 24, 2014
  October 16, 2014

DISCUSSION OF AGENDA TECHNICAL ISSUES

Issue No. 12-G

Title: Measurement of the Financial Liabilities of a Consolidated Collateralized Financing Entity

DISCUSSION OF AGENDA TECHNICAL ISSUES

Issue No. 12-G

Title: Measurement of the Financial Liabilities of a Consolidated Collateralized Financing Entity

Dates Discussed: September 11, 2012; March 14, 2013; June 11, 2013

Introduction

1. In June 2009, the FASB issued Statement No. 167, *Amendments to FASB Interpretation No. 46(R)*, which has since been codified through Accounting Standards Update No. 2009-17, *Consolidations (Topic 810): Improvements to Financial Reporting by Enterprises Involved with Variable Interest Entities*. Under the amendments in Update 2009-17, if a reporting entity holds a controlling financial interest in a variable interest entity (VIE), that entity is determined to be the primary beneficiary of the VIE and is required to consolidate the VIE. Characteristics of a controlling financial interest in a VIE are (a) the power to direct the activities of the VIE that most significantly impact the VIE's economic performance (the power criterion) and (b) the obligation to absorb losses of the VIE or the right to receive benefits from the VIE that could potentially be significant to the VIE (the losses/benefits criterion).

2. As a result of the amendments in Update 2009-17, reporting entities are often required to consolidate collateralized financing entities (CFEs), such as collateralized debt obligations (CDOs) and collateralized loan obligations (CLOs) entities. These CFEs are VIEs that hold various types of debt instruments and issue beneficial interests that only have recourse to the financial assets held by the CFE. Generally, all of the beneficial interests in a CFE, including the most subordinate residual interests, are classified as liabilities under U.S. GAAP (that is, the CFE has no equity). In some instances, the reporting entity may not own any of the beneficial interests, but may consolidate the CFE for other reasons; including a subordinated fee structure.

3. Upon the adoption of the amendments in Update 2009-17, many reporting entities elected the fair value option under Subtopic 825-10, Financial Instruments—Overall, to account for all eligible financial assets and financial liabilities of CFEs, which were consolidated upon the effective date of Update 2009-17. In many instances, when the entity was initially consolidated the aggregate fair value of the assets of the CFE exceeded the aggregate fair value of the CFE's beneficial interests (liabilities). Although the liabilities of the CFE only had recourse to the assets of the CFE, differences between the fair value of the assets and the fair value of the liabilities could result from the following: (a) liquidity discounts that were inherent in the exit price for the CFE's liabilities and not in the CFE's assets, (b) differences between the duration of the CFE's

assets and the duration of the CFE's liabilities, or (c) principal markets for the assets and the liabilities that were not identical.

4. Accordingly, questions existed about how a reporting entity should account for the difference between the fair value of the financial assets and the fair value of the financial liabilities of the CFE required to be consolidated upon adoption of the amendments in Update 2009-17, when the reporting entity does not hold all of the beneficial interests in the CFE.

5. The transition guidance in Update 2009-17 required that the reporting entity record the difference between the financial assets and financial liabilities (and the amount of any previously recognized interest in the CFE, if any) of a consolidated CFE as a cumulative effect adjustment to the retained earnings as of the beginning of the year of adoption. However, some reporting entities recorded the initial difference arising from consolidating the CFE under Update 2009-17 directly to appropriated retained earnings rather than as a cumulative effect adjustment to retained earnings, believing that such an approach more accurately reflected the reporting entity's economic position when the reporting entity does not own any of the beneficial interests and the CFE has not issued any equity interests.

6. In accordance with paragraph 825-10-35-4, subsequent gains and losses as a result of the change in fair value of the financial assets and financial liabilities of the CFE should be recorded within the reporting entity's consolidated net income (loss). However, practice has developed regarding the presentation of that subsequent change in fair value of the financial assets and financial liabilities of a consolidated CFE whereby the portion of such change that is not attributable to the reporting entity is allocated to the noncontrolling interest holders to arrive at the net income (loss) attributable to common shareholders. The net income (loss) allocated to the noncontrolling interest holders is then reclassified to appropriated retained earnings in the statement of changes in equity. Accordingly, under that approach, the change in fair value of the consolidated financial assets and financial liabilities subsequent to initial consolidation under the amendments in Update 2009-17 is attributed to the beneficial interest holders of the CFE and is excluded from the reporting entity's net income attributable to common shareholders and the earnings per share calculation.

7. For CFEs that are initially consolidated subsequent to the effective date of Update 2009-17,[1] there is diversity in practice regarding the accounting by a reporting entity for the difference between the fair value of financial assets and the fair value of the beneficial interests (financial liabilities) of CFEs when the reporting entity becomes the primary beneficiary. Some reporting entities initially record that difference in the consolidated statement of comprehensive income as a gain or loss and allocate such amount to the noncontrolling interest holders in arriving at net income (loss) available to common shareholders. Such amounts are then reclassified to appropriated retained earnings in the statement of changes in equity. Other reporting entities initially record the difference as a direct adjustment to appropriated retained earnings in the

[1] Examples of situations in which a reporting entity would be required to subsequently consolidate a CFE include (a) a reassessment of a previous consolidation conclusion, (b) a business combination, and (c) the acquisition of a management contract that results in the consolidation of a CFE.

statement of changes in equity (similar to the practice that developed for CFEs that were consolidated upon the adoption of the amendments in Update 2009-17).

Issue

8. The Issue is how a reporting entity should initially and subsequently account for the difference between the fair value of the financial assets and the fair value of the financial liabilities of a consolidated CFE.

Scope

9. The amendments in the revised proposed Update resulting from this Issue would apply to reporting entities that are required to consolidate a CFE under the VIE Subsections of Subtopic 810-10.

10. An entity that previously measured all eligible financial assets and financial liabilities of a consolidated CFE at fair value would be required to apply the amendments in the revised proposed Update in measuring the financial liabilities of the CFE. An entity that has not previously measured all eligible financial assets and financial liabilities of the consolidated CFE at fair value may elect, at the date of adoption, to apply the amendments in the revised proposed Update or continue to apply other relevant U.S. GAAP in measuring the liabilities of the CFE.

11. An entity that consolidates a CFE for the first time after the effective date could elect to apply the amendments in the revised proposed Update or apply other relevant U.S. GAAP in measuring the liabilities of the CFE.

12. An entity that consolidates a CFE would be precluded from measuring the financial liabilities at fair value under the fair value option guidance of Topic 825 on financial instruments.

Prior EITF Discussion

13. The Task Force reached a consensus-for-exposure that the fair value of the financial assets and financial liabilities of a CFE shall be measured consistently with the guidance on "financial assets and financial liabilities with offsetting positions in market risks or counterparty credit risk" in Topic 820, Fair Value Measurement. In reaching the consensus-for-exposure, certain Task Force members clarified that although this measurement guidance currently exists in Topic 820, not all reporting entities that consolidate CFEs meet all three criteria in paragraph 820-10-35-18E. As a result, certain reporting entities are not able to apply the measurement guidance in paragraph 820-10-35-18D relating to financial assets and financial liabilities with offsetting positions in market risks or counterparty credit risk. The amendments resulting from this Issue are intended to allow such entities to use the measurement guidance in paragraph 820-10-35-18D. The Task Force considered that by contract, the assets and liabilities of a CFE are managed together and, thus, the requirements of the guidance in paragraph 820-10-35-18D may be analogized to in order to measure the fair value of the group of financial assets and financial liabilities consistently with the way in which market participants would price the net risk exposure at the measurement date. They observed that when the reporting entity owns none of the CFE's beneficial interests, the fair value of the net risk exposure would most often be zero and the financial assets and financial liabilities would be presented on a gross basis with the

portfolio-level fair value adjustments allocated to the individual financial assets or financial liabilities based on the more determinable fair value of either the financial assets or the financial liabilities. If the reporting entity owns some of the beneficial interests of the CFE, the fair value of the beneficial interests held by the reporting entity should be determined based on the perspective of market participants, consistent with the objective of measuring the net amount that the reporting entity would expect to realize if it has (or believes it can readily obtain) the means to terminate the CFE, that is, to sell the collateralized financing entity's assets, settle the CFE's obligations, and realize the net amount. Several Task Force members commented on the practical difficulties associated with actually realizing any implied arbitrage profits.

14. The Task Force discussed whether the scope of this Issue should be limited to CFEs, such as CDOs or CLOs, rather than being more broadly applicable to all reporting entities that were required to consolidate VIEs upon applying Subtopic 810-10. The FASB staff indicated that the diversity that exists in practice primarily relates to the reporting entity's accounting for the difference between the fair value of financial assets and the fair value of the beneficial interests (financial liabilities) of CFEs. The Task Force decided to limit the scope of the measurement guidance in the proposed Update to apply to reporting entities that consolidate a CFE and are required to or have elected a fair value option under Topic 825 to account for all eligible financial assets and financial liabilities of the CFE at fair value. The Task Force also clarified that the amendments in the proposed Update would apply to CFEs that only hold financial assets and issue beneficial interests that only have recourse to the financial assets held by the CFE, and defined a CFE as an entity that holds debt instruments, issues beneficial interests in those financial assets, and has no equity. The beneficial interests are financial liabilities that only have recourse to the related financial assets of the CFE. The FASB staff stated that a question in the proposed Update would ask constituents whether the scope of this Issue is appropriate.

15. The Task Force decided that the proposed amendments should include an objective of the measurement guidance being proposed. Based on that decision, the proposed amendments would state that the fair value of the group of financial assets and financial liabilities should be measured consistently with the way in which market participants would price the reporting entity's net risk exposure at the measurement date. In effect, the objective of measuring the group of financial assets and financial liabilities consistently would result in the net amount that represents the amount that the reporting entity would expect to realize.

16. At the March 14, 2013 EITF meeting, the Task Force considered the feedback received from the comment letters on the proposed Update for this Issue, which was posted to the FASB website on October 11, 2012, with a comment period that ended on December 10, 2012. Eleven comment letters were received on the proposed Update with additional informal feedback provided by an accounting firm respondent. Comments received covered issues relating to scope, measurement, transition and early adoption, implementation guidance, and effective date.

17. The Task Force affirmed without significant modifications its consensus-for-exposure as a final consensus. In affirming its consensus-for-exposure, the Task Force clarified that the scope of the Update should include (a) all reporting entities that consolidate a VIE meeting the definition of a CFE, including those that retain beneficial interests in the CFE, and (b) CFEs that hold nonfinancial assets temporarily as a result of default by the debtor on the underlying debt instruments held as assets by the collateralized financing entity or an effort to restructure the debt

instruments held as assets by the collateralized financing entity. The Task Force discussed that excluding CFEs that hold financial assets temporarily may cause CFEs to be periodically included and excluded from the scope of the proposed Update.

18. The Task Force agreed that the definition of a CFE in the proposed Update should be amended to include those CFEs that have nominal equity. The Task Force agreed that including CFE's with nominal equity would not be inconsistent with the Update's intent to include only those CFE structures that were designed to pass the risks and rewards through to the CFE's variable interest holders.

19. At its March 28, 2013 meeting, the Board ratified the consensus reached by the Task Force on this Issue; however, the final Accounting Standards Update was not issued because of concerns raised during the fatal flaw review of the draft final Update.

Current EITF Discussion

20. At the June 11, 2013 EITF meeting, the Task Force discussed the concerns expressed during the fatal flaw review of the amendments in the proposed Update. Those concerns related to (a) the use of the term *net risk exposure* to describe a reporting entity's interest in a CFE, (b) the measurement consequences when the fair value of the financial liabilities is more observable than the fair value of the financial assets and the reporting entity holds nonfinancial assets, and (c) how the prospective transition method should be applied. After deliberating those concerns, the Task Force decided to amend certain provisions of that draft final Update and reached a new consensus-for-exposure.

21. The Task Force reached a consensus-for-exposure that a reporting entity that has previously measured the financial assets and financial liabilities of a consolidated CFE at fair value would be required to apply the revised proposed amendments in measuring the financial liabilities of the CFE. The Task Force decided that the value of the financial liabilities would be determined on the basis of the sum of the fair value of the financial assets and the carrying value of any nonfinancial assets, less the sum of the fair value of the financial assets and the carrying value of any nonfinancial assets attributable to the beneficial interest owned by the reporting entity and the carrying value of any beneficial interests that represent compensation for services rendered by the reporting entity.

22. A reporting entity would allocate that value to the individual financial liabilities on a reasonable and consistent basis using a methodology appropriate in the circumstances. Changes in the sum of the fair value of financial assets and the carrying value of nonfinancial assets attributable to the beneficial interests (other than beneficial interests that represent compensation for services) owned by the reporting entity would be recognized in the statement of comprehensive income of the reporting entity.

23. In reaching this consensus-for-exposure, the Task Force considered but decided against permitting the value of the financial assets to be measured on the basis of the fair value of the financial liabilities, because that could result in the value of the financial assets inappropriately including an amount relating to the changes in the fair value of any nonfinancial assets held by the CFE. In addition, the Task Force decided it could be impracticable to allocate the fair value of the financial liabilities to the individual financial assets on a reasonable and consistent basis.

24. The Task Force reached a consensus-for-exposure that beneficial interests that represent compensation for services (such as management fees) and nonfinancial assets that are being held temporarily by a CFE as a result of default by the debtor on the underlying debt instruments held as assets by the CFE or in an effort to restructure the debt instruments held as assets by the CFE would be measured in accordance with other applicable U.S. GAAP. In reaching this consensus-for-exposure, the Task Force discussed whether the amendments in the revised proposed Update should require any such nonfinancial assets held temporarily by a CFE to be measured at fair value or at carrying value in accordance with other U.S. GAAP. One Task Force member emphasized that using the carrying value rather than the fair value of nonfinancial assets to determine the value of the financial liabilities of the CFE may result in recording noneconomic losses (or gains) if and when a reporting entity buys or sells beneficial interests (other than beneficial interests that represent compensation for services) in the CFE.

25. The Task Force decided that a reporting entity would be required to apply the guidance in the revised proposed Update if it had previously elected or was required to measure the financial assets and financial liabilities of a consolidated CFE at fair value. Reporting entities that had not previously measured all eligible financial assets and financial liabilities of the consolidated CFE at fair value would be permitted to elect to apply the amendments in the revised proposed Update at the date of adoption. The Task Force also decided that a reporting entity that consolidates a CFE would not be permitted to elect to measure the financial liabilities of the CFE using the fair value option under Topic 825 on financial instruments. The Task Force decided to eliminate the ability to elect the fair value option for the financial liabilities of a collateralized financing entity because doing so promotes comparability among entities that measure the assets and liabilities of the collateralized financing entity using a method other than amortized cost. In reaching its consensus-for-exposure, the Task Force clarified that the scope of the revised proposed Update would apply to (a) all reporting entities that consolidate a VIE that meets the definition of a CFE, including those that retain beneficial interests in the CFE, and (b) CFEs that hold nonfinancial assets temporarily.

26. The Task Force discussed that the guidance in the revised proposed Update should not be applied to transfers of financial assets that do not meet the conditions for a sale and, as a result, are required to be accounted for as a secured borrowing with pledge of collateral under paragraph 860-30-25-2.

Recurring Disclosures

27. The Task Force agreed that a reporting entity that consolidates a CFE and measures the financial liabilities of the CFE using the guidance in the revised proposed Update would disclose all of the information required by Topic 820, Topic 825, and other relevant Topics, as applicable, for the financial assets. The Task Force clarified that the disclosure guidance in the revised proposed Update would be applied only by reporting entities to their consolidated collateralized financing entities and should not be analogized to in other circumstances.

28. The Task Force also decided that a reporting entity within the scope of the revised proposed Update would not be required to comply with the fair value measurement disclosures for the CFE's financial liabilities because the financial liabilities would be measured at an amount that is

derived from the measurement of the collateralized financing entity's assets and therefore would not necessarily represent fair value. For the financial liabilities, the Task Force decided that a reporting entity would only disclose that the financial liabilities are measured on the basis of the fair value of the financial assets and the carrying value of any nonfinancial assets. The Task Force also noted that the fair value measurement disclosure requirements of Topic 820 and Topic 825 would not be applicable to the financial liabilities of a collateralized financing entity that are measured under the revised proposed Update.

29. The Task Force also requested that the revised proposed Update include questions about (a) what method should be used to allocate the fair value of the financial assets to the individual financial liabilities and whether that allocation method should be disclosed, and (b) whether disclosing the value of the beneficial interests retained by the reporting entity provides decision-useful information.

Transition Method

30. At the June 11, 2013 EITF meeting, the Task Force reached a consensus-for-exposure that the amendments in the revised proposed Update should be applied using a modified retrospective approach. In addition, the Task Force agreed that reporting entities that previously measured all eligible financial assets and financial liabilities of the consolidated CFE at fair value may apply the amendments either retrospectively to all relevant prior periods beginning with the fiscal year in which the amendments in Update 2009-17 were initially adopted, or using the modified retrospective method of adoption.

31. The Task Force clarified that under the modified retrospective approach, a reporting entity would remeasure the financial liabilities using this guidance as of the beginning of the period of adoption and record a cumulative-effect adjustment to equity. Amounts within the remeasurement adjustment that would have been recognized in the income statement in prior periods under the revised proposed Update would be recorded to retained earnings.

Board Ratification

32. At its June 26, 2013 meeting, the Board ratified the consensus-for-exposure reached by the Task Force in this issue and approved the issuance of a revised proposed Update for a 60-day public comment period.

Status

33. Further discussion is expected at a future EITF meeting.

Issue No. 12-H

Title: Accounting for Service Concession Arrangements

Dates Discussed: January 17, 2013; June 11, 2013

Introduction

1. Service concession arrangements are arrangements under which a public sector entity grantor grants a private entity (an operating entity), the right to operate and/or maintain the grantor's infrastructure assets (for example, airports, roads, bridges, tunnels, prisons, and hospitals). The infrastructure may exist at the date the arrangement is entered into or may be constructed and/or upgraded 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 grantor 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 arrangements.

2. In a typical service concession arrangement, 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 grantor to perform those services. Such payments may be paid as the services are performed 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 arrangement may also contain an unconditional guarantee under which the grantor would provide a guaranteed minimum payment if the fees collected from the public do not reach a specified minimum threshold. The grantor generally controls and has the ability to modify or approve the services the operating entity must provide using the infrastructure, to whom the services will be provided, and the price that will be paid for the services. The arrangement may set 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 grantor in exchange for the right to use and operate the grantor's infrastructure. In such arrangements, the operating entity is generally given the right to charge users of the infrastructure.

4. Service concession arrangements can take many different forms; however, a key feature is the public service nature of the obligation undertaken by the operating entity. In addition to the above, other common aspects of service concession arrangements include:

   a. The operating entity constructs the infrastructure for the grantor, provides significant upgrades to the grantor's existing infrastructure, makes a cash payment to the grantor, operates, or provides a combination of these kinds of features.
   b. The contracted services provided by the operating entity to the public on behalf of the grantor must meet minimum performance standards.

c. At the end of the term of the arrangement, the grantor 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 arrangement for a toll road for public use under which the operating entity agrees to the following conditions:

a. Making an upfront payment to the grantor.
b. Operating and maintaining 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 grantor to change the toll charged per motor vehicle using the roadway.
d. At the end of the arrangement, conveying any residual interest in the roadway and toll booths to the grantor.

6. U.S. GAAP does not have accounting guidance that specifically addresses accounting for service concession arrangements. Depending on the terms of a service concession arrangement, operating entities may conclude that an arrangement does not meet the lease criteria in Topic 840, Leases.

Issue

7. This Issue addresses whether an operating entity should account for a service concession arrangement as a lease under Topic 840.

Scope

8. This Issue applies to all service concession arrangements under which a public sector entity (as defined below) grantor enters into a contract with an operating entity to operate the grantor's infrastructure for purposes of providing a public service. In such arrangements the operating entity may also provide the construction, upgrading, or maintenance services of the grantor's infrastructure. A public sector entity includes a governmental body or an entity to which the responsibility to provide public service has been delegated.

9. This Issue applies to the accounting for an operating entity that enters into a service concession arrangement with a grantor when both of the following conditions exist:

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

Prior EITF Discussion

10. At the January 17, 2013 EITF meeting, the Task Force tentatively concluded that an operating entity should account for its rights over the infrastructure in a service concession arrangement within the scope of this Issue as an intangible asset, a financial asset, or both. The Task Force tentatively concluded that the accounting for service concession arrangements should be determined based on whether the operating entity *controls* the infrastructure that is being used to provide the public service. The Task Force considered that the operating entity may have wide managerial discretion in operating the infrastructure; however, it does not control the use of the infrastructure because the grantor determines what services the operating entity must provide with the infrastructure, to whom it must provide them, and at what price. The grantor controls any residual interest in the infrastructure at the end of the term of the arrangement. Therefore, service concession arrangements within the scope of this Issue should not be accounted for as leases under Topic 840 because the operating entity does not have the right to control the use of the grantor's infrastructure.

11. Some Task Force members raised concerns about the scope of this Issue including whether other types of arrangements should be included (for example, private-to-private service concession arrangements). The Task Force concluded that the scope should not be expanded because public-to-private service concession arrangements are the primary arrangements for which guidance is being sought by stakeholders.

12. Task Force members also discussed whether guidance may be needed for other elements of service concession arrangements (for example, how to account for construction or upgrade services). The Task Force concluded that some aspects of service concession arrangements are currently being addressed in other ongoing FASB projects (for example, the FASB and IASB joint projects on revenue and leasing) and are not the primary issue on which authoritative guidance is being sought. The Task Force requested that the FASB staff prepare a draft proposed Update on the basis of this tentative conclusion for discussion at a future EITF meeting.

Current EITF Discussion

13. At the June 11, 2013 EITF meeting, the Task Force discussed its tentative conclusions reached at the January 17, 2013 EITF meeting. One Task Force member suggested that an operating entity should first apply the guidance in Topic 840 to determine whether a service concession arrangement is a lease and that this Issue should not amend Topic 840 to explicitly exclude service concession arrangements from its scope. Other Task Force members, however, stated that requiring operating entities to assess whether a service concession arrangement is a lease under Topic 840 would not provide any more clarity to operating entities because such a requirement would not diminish the difficulty involved in making that assessment, and finding a way to diminish that difficulty is the reason why this Issue is being considered by the EITF. The difficulty in making an assessment is primarily due to the wide variety of arrangement terms and the significant amount of management judgment involved in interpreting the guidance in Topic 840 as it applies to service concession arrangements. Those Task Force members also stated that explicitly excluding service concession arrangements from the scope of Topic 840 would be consistent with the tentative decisions reached by the FASB and the IASB in their joint project on leases. The Task Force reached a consensus-for-exposure that a service concession

arrangement within the scope of this Issue should not be accounted for as a lease under Topic 840.

14. The Task Force reached a consensus-for-exposure that it also was necessary to clarify that the operating entity's rights over the infrastructure do not result in the infrastructure being recognized as the property, plant, and equipment of the operating entity. That is due to the fact that the operating entity does not control the use of the infrastructure under the terms of the arrangement. Many service concession arrangements have a very long term. In such cases, the form and/or the substance of the arrangement may convey the responsibilities customary of ownership over the infrastructure to the operating entity during the term of the arrangement. The Task Force believes that because the operating entity does not have control over the infrastructure, this Issue should state that the infrastructure should not be recognized as the operating entity's property, plant, and equipment.

15. The Task Force concluded that providing determinative guidance that a service concession arrangement that is within the scope of this Issue is not a lease would reduce the diversity that occurs in practice. In addition, the Task Force confirmed its tentative conclusion reached at the January 17, 2013 EITF meeting that the accounting for service concession arrangements should be based on whether the operating entity controls the infrastructure that is being used to provide the public service. In a service concession arrangement within the scope of this Issue, an operating entity does not have the right to control the use of the grantor's infrastructure.

16. The Task Force concluded that an operating entity would look to other relevant Codification Topics, as applicable, to account for the various aspects of a service concession arrangement. Some Task Force members indicated a preference to expand the scope of this Issue to include comprehensive guidance about how an operating entity should account for those aspects. However, the Task Force considered that many of the principles in current U.S. GAAP would direct preparers to the most appropriate guidance for their specific service concession arrangement. The Task Force also noted that some aspects of a service concession arrangement are currently being addressed in other ongoing FASB projects (for example, the FASB and IASB joint project on revenue recognition).

Transition Method and Transition Disclosures

17. At the June 11, 2013 meeting, the Task Force reached a consensus-for-exposure that an operating entity should apply this Issue on a modified retrospective basis to all arrangements that exist at the beginning of an entity's fiscal year of adoption and to all arrangements entered into after that date. Under the modified retrospective approach the cumulative effect of applying the guidance in this Issue to arrangements existing at the beginning of the fiscal year of adoption would be recognized as an adjustment to the opening balance of retained earnings in the fiscal year of adoption. The Task Force also reached a consensus-for-exposure that an operating entity would apply the transition disclosure requirements in paragraphs 250-10-50-1 through 50-3 for an accounting change resulting from this Issue. No additional transition disclosures would be required.

Board Ratification

18. At its June 26, 2013 meeting, the Board ratified the consensus-for exposure reached by the Task Force in this Issue and approved the issuance of a proposed Update for a 60-day public comment period.

Status

19. Further discussion is expected at a future EITF meeting.

Issue No. 13-A

Title: Inclusion of the Fed Funds Effective Swap Rate (or Overnight Index Swap Rate) as a Benchmark Interest Rate for Hedge Accounting Purposes

Dates Discussed: January 17, 2013; June 11, 2013

Introduction

1. Topic 815, Derivatives and Hedging, provides guidance on the risks that are permitted to be hedged in a fair value or cash flow hedge. Among those risks for financial assets and financial liabilities is the risk of changes in a hedged item's fair value or a hedged transaction's cash flows attributable to changes in the designated benchmark interest rate (referred to as interest rate risk).

2. For simplicity, the stated interest rate in a financial asset or liability can be characterized as containing two components, a risk-free rate and a credit spread. In permitting the hedge of the benchmark interest rate risk in Topic 815, the Board was providing a practical means to designate the risk of changes in the hedged item attributable to changes in the risk-free component of the interest rate (that is, benchmark interest rate risk, which, in theory, is the risk-free component) in isolation, without requiring that an entity also hedge changes in the spread (which is deemed to reflect credit risk) above the benchmark interest component. In the United States, currently only the interest rates on direct Treasury obligations of the U.S. government (UST) and, for practical reasons, the London Interbank Offered Rate (LIBOR) swap rate are considered benchmark interest rates.

3. During its deliberations at the time of issuing the derivatives and hedging guidance, the Board considered whether other rates in the U.S. financial markets, such as the Fed Funds rate, should be included in the definition of benchmark interest rate. At the time, the Board rejected the Fed Funds rate as a benchmark rate in the United States and decided that allowing more than two benchmark rates (that is, UST and LIBOR) to define interest rate risk was unnecessary and would make the resulting financial statements more difficult to understand. Therefore, currently other such indexes may not be used as the benchmark interest rate in the U.S.

4. The Fed Funds rate is the interest rate at which depository institutions (for example, banks) actively trade balances held at the Federal Reserve with each other, usually overnight. Institutions with surplus balances in their accounts lend those balances to institutions in need of larger balances. The weighted average of this rate across all such transactions on any given day is the daily Fed Funds effective rate. The related Fed Funds Effective Swap Rate (which represents the Overnight Index Swap Rate or OIS in the United States) is the fixed rate swapped in exchange for a floating overnight rate, which is the Fed Funds effective rate. Thus, in the United States, the relationship between the Fed Funds effective rate and the Fed Funds Effective Swap Rate (OIS) is the same as the relationship between LIBOR and the London Interbank Offered Rate Swap rate (as defined in the Master Glossary).

5. As a result of the financial crisis in 2008, the exposure to and the demand for hedging the Fed Funds rate have increased significantly. That demand has been driven by an increased focus by banks on their sources of funding (including an increased focus on overnight interbank

borrowings of surplus balances held at the Federal Reserve), the greater (and sometimes volatile) spread between LIBOR and OIS, and new regulatory measures to curb systemic risks such as U.S. legislation that requires greater clearing of derivatives through exchanges or clearinghouses (which must be collateralized). The increased prevalence of OIS in the marketplace can also be seen in derivatives valuation, where practice is evolving such that some believe that the appropriate discount rate to use in the valuation of collateralized derivatives should be based on OIS, because that rate reflects the lower cost of financing a collateralized instrument. This has caused derivative counterparties to be more exposed to overnight rates even on derivatives whose cash flows are based on LIBOR resets and has resulted in incremental ineffectiveness in certain hedging relationships. Therefore, some derivative counterparties believe that OIS should be permitted as a benchmark interest rate in the U.S. for hedge accounting purposes.

Issue

6. The issue is whether the Fed Funds Effective Swap Rate (OIS) should be included as a U.S. benchmark interest rate for hedge accounting purposes.

Prior EITF Discussion

7. At the January 17, 2013 EITF meeting, the Task Force reached a consensus-for exposure to include the Fed Funds Effective Swap Rate (OIS) as a U.S. benchmark interest rate for hedge accounting purposes. As the exposure to and importance of OIS have increased significantly, the Task Force determined that OIS should be an acceptable U.S. benchmark interest rate for hedge accounting purposes and that OIS meets the criteria to be a benchmark rate. OIS is indicative of high-quality borrowing rates and the extent of the credit risk associated with OIS rates is low because OIS is derived from an overnight transfer of funds rate, which inherently limits credit risk exposure. Furthermore, OIS is evolving as a widely recognized and quoted rate that is broadly indicative of the overall level of interest rates attributable to high-credit-quality obligors in the U.S. market. It is a rate that is becoming more widely used in the U.S. financial market as an underlying basis for determining the interest rates of certain individual financial instruments, including collateralized derivatives, and the underlying Fed Funds rate is commonly referenced in interest-rate-related transactions as being the rate at which depository institutions (for example, banks) actively trade balances held at the Federal Reserve with each other.

8. The Task Force reached a consensus-for-exposure that no additional recurring disclosures should be required by this Issue. The Task Force also reached a consensus-for-exposure that this Issue should be applied on a prospective basis for qualifying new or redesignated hedging relationships entered into on or after the date of adoption. To qualify for hedge accounting, which is optional, Topic 815 requires formal designation and documentation of the hedging relationship before hedge accounting may be applied. Since retrospective application would be contrary to the contemporaneous hedge documentation requirements, the Task Force decided that the proposed guidance can only be applied on a prospective basis for qualifying new or redesignated hedging relationships entered into on or after the date of adoption. The Task Force also reached a consensus-for-exposure that no additional transition disclosures should be required by this Issue.

9. While the Task Force did not reach a consensus-for-exposure on the effective date (decisions on effective date are only reached after a consensus-for-exposure has been exposed

for public comment and the feedback considered by the Task Force in redeliberations), the Task Force indicated that if it affirms its consensus-for-exposure as a final consensus in a future meeting, it would consider whether the effective date of this Issue should coincide with the issuance date of the final consensus.

10. A Task Force member noted that paragraph 815-20-25-6 provides that ordinarily an entity shall designate the same benchmark interest rate as the risk being hedged for similar hedges and that the use of different benchmark interest rates for similar hedges shall be rare and shall be justified. The Task Force clarified that, regardless of existing hedging relationships, the inclusion of a new rate as a benchmark interest rate would justify an entity's election to apply OIS-based benchmark interest rate hedge accounting for qualifying new or redesignated hedging relationships entered into on or after the date of adoption.

11. At its January 31, 2013 meeting, the Board ratified the consensus-for exposure reached by the Task Force in this Issue and approved the issuance of a proposed Update for a 60-day public comment period.

Current EITF Discussion

12. At the June 11, 2013 EITF meeting, the Task Force considered the feedback received from the comment letters on the proposed Update for this Issue, which was posted to the FASB website on February 21, 2013, with a comment period that ended on April 22, 2013. Twenty-two comment letters were received on the proposed Update. Consistent with the comment letter feedback, the Task Force affirmed as a consensus its consensus-for-exposure that the Fed Funds Effective Swap Rate (OIS) should be added as a U.S. benchmark interest rate.

13. The Task Force discussed the concern expressed by many respondents regarding the following two sentences in paragraph 815-20-25-6:

> Ordinarily, an entity shall designate the same benchmark interest rate as the risk being hedged for similar hedges, consistent with paragraphs 815-20-25-80 through 25-81. The use of different benchmark interest rates for similar hedges shall be rare and shall be justified.

14. Those respondents believe that a risk manager may have valid reasons to hedge with different benchmark interest rates what could appear to be similar hedging relationships. They argue that interest rate risk may differ for a similar financial asset, financial liability, or forecasted transaction depending on how that hedged item is used within the organization and the risk manager's objective in hedging its respective interest rate risk. Consistent with the comment letter feedback and considering that no potential abuse could be anticipated, the Task Force decided to amend paragraph 815-20-25-6, referenced above, by removing the two sentences.

Recurring Disclosures

15. The Task Force affirmed as a consensus its consensus-for-exposure that no additional recurring disclosures should be required by this Issue. Topic 815 requires extensive quantitative and qualitative disclosures about derivatives and hedging activities primarily based on underlying risk and accounting designation; however, it does not require that an entity

specifically disclose the actual interest rate benchmark (for example, UST or LIBOR) that is hedged. The Task Force concluded that it is not necessary to revisit the Board's previous conclusions as to the granularity of disclosures about derivatives and hedging activities.

Transition and Transition Disclosures

16. The Task Force affirmed as a consensus its consensus-for-exposure that the amendments resulting from this Issue should be applied on a prospective basis for qualifying new or redesignated hedging relationships entered into on or after the date of adoption. The Task Force also affirmed as a consensus its consensus-for-exposure that no additional transition disclosures should be required by this Issue.

Effective Date

17. The Task Force reached a consensus that the amendments resulting from this Issue should be effective immediately upon issuance of the Update.

Board Ratification

18. At its June 26, 2013 meeting, the Board ratified the consensus reached by the Task Force on this Issue.

Status

19. No further EITF discussion is planned.

Issue No. 13-C

Title: Presentation of an Unrecognized Tax Benefit When a Net Operating Loss Carryforward, a Similar Tax Loss, or a Tax Credit Carryforward Exists

Dates Discussed: January 17, 2013; June 11, 2013

Introduction

1. In some circumstances, the settlement of an unrecognized tax benefit does not result in a cash payment because it is settled by reducing a net operating loss (NOL) carryforward, a similar tax loss, or a tax credit carryforward. For example, U.S. tax law requires that an entity's taxable income be reduced by available NOL carryforwards and carrybacks. The Internal Revenue Service (IRS) cannot require a taxpayer to settle a disallowed uncertain tax position in cash if sufficient NOL carryforwards are available to eliminate the additional taxable income. In addition, the IRS does not permit a taxpayer to choose when to use its NOL carryforwards; the taxpayer is required to use NOL carryforwards in the first year taxable income arises.

2. Topic 740, Income Taxes, does not include explicit guidance on whether and when an entity should present an unrecognized tax benefit as a liability or as a reduction of NOL carryforwards, similar tax losses, or other tax credit carryforwards related to the same jurisdiction. The FASB staff previously received technical inquiries about the presentation of unrecognized tax benefits. The FASB staff's response, which is not authoritative U.S. GAAP, was that the presentation of the liability for an unrecognized tax benefit depends on the relationship between the unrecognized tax benefit and the NOL carryforwards. If an unrecognized tax benefit is directly associated with a tax position taken in a tax year that results in or that resulted in the recognition of an NOL carryforward for that year (and the NOL carryforward has not yet been utilized), the unrecognized tax benefit should be presented as a reduction to the NOL carryforward; otherwise, it should be presented as a liability.

3. There appears to be some diversity in practice attributable to the absence of explicit guidance within U.S. GAAP.

Issue

4. How entities present an unrecognized tax benefit in the financial statements when non-recognition of the tax benefit would otherwise reduce a deferred tax asset related to an NOL carryforward, a similar tax loss, or a tax credit carryforward under the provisions of the tax law.

Scope

5. This Issue applies to unrecognized tax benefits when a net operating loss carryforward, a similar tax loss, or a tax credit carryforward exists at the reporting date.

Prior EITF Discussion

6. At the January 17, 2013 EITF meeting, the Task Force reached a consensus-for-exposure to require presentation in the financial statements of an unrecognized tax benefit as a reduction of a deferred tax asset for an NOL carryforward or a tax credit carryforward (rather than as a liability) except to the extent an NOL carryforward or tax credit carryforward at the reporting date is not

available under the tax law of the applicable jurisdiction to settle any additional income taxes that would result from the disallowance of a tax position, wherein the unrecognized tax benefit shall be presented in the financial statements as a liability.

7. The Task Force determined that the tax provision should be prepared as if the uncertain tax position was not claimed in the tax return. If uncertain tax positions were settled with the taxing authority on the basis recognized and measured, the position's resolution effectively amounts to additional taxable income or income tax. If under the governing tax law, the NOL carryforward, or the tax credit carryforward would be applied to the additional liability that would arise in the event that the uncertain tax position is not sustained and the settlement related to the uncertain tax position will not result in a payment of taxes but instead will reduce the NOL carryforward, or the tax credit carryforward, then the presentation in the financial statements of the deferred tax asset should be reduced for the unrecognized tax benefit accordingly.

8. Task Force members noted that the proposed presentation is both consistent with how income taxes are often settled and in agreement with the intent of the offsetting guidance within Subtopic 210-20, Balance Sheet—Offsetting (formerly FASB Interpretation No. 39, *Offsetting of Amounts Related to Certain Contracts*). In some jurisdictions, unrecognized tax benefits and NOL carryforwards satisfy the conditions of paragraph 210-20-45-1 (particularly criteria (b), (c), and (d) addressing the right, the intention, and the enforceability of the entity to setoff), because the unrecognized tax benefits would be offset under the provisions of the tax law.

9. The Task Force also noted that paragraph 740-10-50-15A will continue to require a public entity to disclose a rollforward of its unrecognized tax benefits and that the net presentation in the financial statements accompanied by the existing gross disclosure requirements would be useful in the analysis of the financial statements and in understanding risk associated with entities' tax positions.

10. The Task Force reached a consensus-for-exposure that no additional recurring disclosures would be required by this Issue because the amendments do not affect the recognition or measurement of uncertain tax positions under Topic 740 and the currently required tabular reconciliation of the gross amount of unrecognized tax benefits will provide public entity users with relevant information about the unrecognized tax benefits offset against net operating loss carryforwards or tax credit carryforwards.

11. The Task Force reached a consensus-for-exposure that entities should apply this Issue retrospectively to all periods presented with earlier application permitted. The Task Force observed that retrospective application would enhance comparability and that the costs associated with application of the proposed guidance may not be significant because entities would have identified their unrecognized tax positions for their prior period tax calculations and disclosures. The Task Force decided to solicit stakeholder input about the retrospective approach by including a question for respondents in the proposed Update.

12. At its January 31, 2013 meeting, the Board ratified the consensus-for exposure reached by the Task Force in this Issue and approved the issuance of a proposed Update for a 60-day public

comment period. The proposed Update was posted to the FASB website on February 21, 2013, with a comment period that ended on April 22, 2013.

Current EITF Discussion

13. At the June 11, 2013 EITF meeting, the Task Force considered the feedback received from the comment letters on the proposed Update for this Issue, which was posted to the FASB website on February 21, 2013, with a comment period that ended on April 22, 2013. Ten comment letters were received on the proposed Update. In addition, the FASB staff participated in informal discussions with two of the comment letter respondents to further understand their views.

14. Eight of the 10 comment letter respondents agreed with the proposed presentation of unrecognized tax benefits. Some of those respondents supported the proposed presentation because they stated it is consistent with how the liability would be settled if the tax position were disallowed by the taxing authority.

15. The Task Force considered the feedback from the two respondents who did not support the presentation approach. Those respondents supported the other approaches that the Task Force previously considered, but rejected, in its initial deliberations. The respondents stated that the cost and complexity of the presentation approach was higher than the cost and complexity of the other approaches. In addition, they stated that the incremental cost and complexity was not warranted because the presentation approach does not provide better information to users of financial statements. After considering that feedback, the Task Force concluded that the incremental benefit of the Update outweighs any incremental cost and complexity of the presentation approach. In addition, the Task Force concluded that the presentation approach provides more decision-useful information to users of financial statements than the other approaches considered because it reflects how the liability would be settled if the tax position were disallowed by the taxing authority at the reporting date and will reduce diversity in practice.

16. The Task Force concluded that an unrecognized tax benefit or a portion of an unrecognized tax benefit should be presented in the financial statements as a reduction to a deferred tax asset for a net operating loss carryforward, a similar tax loss, or a tax credit carryforward, except as follows. To the extent a net operating loss carryforward, a similar tax loss, or a tax credit carryforward is not available at the reporting date under the tax law of the applicable jurisdiction to settle any additional income taxes that would result from the disallowance of a tax position or the tax law of the applicable jurisdiction does not require the entity to use, and the entity does not intend to use, the deferred tax asset for such purpose, the unrecognized tax benefit should be presented in the financial statements as a liability and should not be combined with deferred tax assets. The assessment of whether a deferred tax asset is available is based on the unrecognized tax benefit and deferred tax asset that exist at the reporting date and shall be made presuming disallowance of the tax position at the reporting date. For example, an entity should not evaluate whether the deferred tax asset expires before the statute of limitations on the tax position or whether the deferred tax asset would be used prior to the unrecognized tax benefit being settled. However, an entity would need to consider limitations as of the reporting date on the use of deferred tax assets (for example, limitations on the use of a net operating loss due to an

alternative minimum taxation system). The presentation approach in this Issue affects presentation and disclosure of current and deferred income taxes.

Recurring Disclosures

17. At the June 11, 2013 EITF meeting, the Task Force affirmed as a consensus its consensus-for-exposure that no additional recurring disclosures would be required by this Issue because the amendments do not affect the recognition or measurement of uncertain tax positions under Topic 740 and the currently required tabular reconciliation of the gross amount of unrecognized tax benefits will provide public entity users with relevant information about the unrecognized tax benefits offset against net operating loss carryforwards, similar tax losses, or tax credit carryforwards. In addition, all of the respondents who commented on recurring disclosures, agreed that no new recurring disclosures should be required.

Transition

18. At the June 11, 2013 EITF meeting, the Task Force considered the transition approach and effective date. The consensus-for-exposure proposed that entities should apply this Issue retrospectively to all periods presented with earlier application permitted. The Task Force concluded that the costs of requiring a full retrospective application outweigh the benefits of providing the information to users of financial statements. The Task Force therefore reached a consensus that the amendments resulting from this Issue should be applied prospectively for public entities for fiscal years (and interim reporting periods within those years) beginning after December 15, 2013, and for nonpublic entities for fiscal years (and interim reporting periods within those years) beginning after December 15, 2014. The Task Force also decided to permit an entity to elect a full retrospective transition.

19. The Task Force decided to permit early adoption of the amendments to eliminate existing diversity in practice as soon as is practicable.

20. The Task Force decided that nonpublic entities should have additional time to implement the amendments because of their learning cycle and because the Task Force is aware that nonpublic entities previously informed the FASB about their particular challenges with implementing the guidance in accounting for unrecognized tax benefits.

Transition Disclosures

21. At the June 11, 2013 EITF meeting, the Task Force affirmed as a consensus its consensus-for-exposure that entities should apply the transition disclosure requirements in Subtopic 250-10, Accounting Changes and Error Corrections—Overall, for an accounting change resulting from this Issue. No additional transition disclosures would be required.

Board Ratification

22. At its June 26, 2013 meeting, the Board ratified the consensus reached by the Task Force on this Issue.

Status

23. No further EITF discussion is planned.

Issue No. 13-D

Title: Determination of Whether a Performance Target That Can be Achieved after an Employee Provides the Requisite Service Is a Performance Condition or a Condition That Affects the Grant-Date Fair Value of the Awards

Date Discussed: June 11, 2013

Introduction

1. The Master Glossary defines a *performance condition* as:

> A condition affecting the vesting, exercisability, exercise price, or other pertinent factors used in determining the fair value of an award that relates to both of the following:
> a. An employee's rendering service for a specified (either explicitly or implicitly) period of time
> b. Achieving a specified performance target that is defined solely by reference to the employer's own operations (or activities).

2. Performance conditions that affect only vesting of an award are not reflected in the estimate of the grant-date fair value of the award; whereas, other conditions that affect an award's fair value are included in the estimate of the grant-date fair value of the award ("non-vesting condition").

3. In equity classified awards, the compensation cost is recognized over the requisite service period in accordance with paragraph 718-10-35-2, which states that the requisite service period is often the vesting period.

4. The definition of a performance condition does not specify that the employee must be rendering service when the performance target is achieved. Accordingly, when a performance target can be achieved after the requisite service period ends, stakeholders indicate that diversity in practice exists about whether the performance target is a performance condition, a non-vesting condition, or is treated as an other condition in accordance with paragraph 718-10-25-13, which would result in the awards being classified as liabilities.

5. Awards with such characteristics are common in stock-based compensation plans offered by nonpublic entities that want to provide incentives to management that are conditional upon achieving a performance target, such as an initial public offering (IPO) or a change-in-control event. Practice indicates that some entities treat such performance targets as a performance condition and therefore account for the terms as a condition that affects the vesting period of the award (but not the grant-date fair value). Those entities consider that both elements of a performance condition are present in the award; that is, the service period and the performance target. Other entities do not treat the performance target as a performance condition and, instead, treat it as a non-vesting condition that affects the grant-date fair value of the awards. In the latter case, entities consider the performance target to be either a post-vesting restriction for a restricted stock unit (RSU) or an exercisability restriction for an option.

6. Some stakeholders noted that this issue arises when an entity grants awards that contain a performance target to retirement-eligible employees. In those cases, the retirement-eligible employees do not need to be rendering services at the time the performance target is achieved in order to earn the award. Guidance in paragraphs 718-10-55-86 through 55-88 states that the awards to retirement-eligible employees do not contain a performance or service condition for the purposes of vesting, that is, the award is vested when the award is granted. In those cases, some entities consider that the performance target should be treated as a non-vesting condition that affects the grant-date fair value of the awards. Those entities consider the service period to be nonsubstantive. Other entities, however, believe that the guidance in paragraphs 718-10-55-86 through 55-88 is not determinative and treat the performance target as a performance condition.

7. The Task Force discussed that the treatment of the performance target as an other condition, resulting in the awards being classified as liabilities, is rarely applied in practice. This approach, however, was discussed at a Statement 123R Resource Group meeting in 2005.

8. The diversity in practice arises because there is no explicit requirement in the definition of a performance condition for the service period to be at least as long as the measurement period of the performance target. Different views have emerged about whether an employee needs to be in service when the performance target is achieved in order for the performance target to be treated as a performance condition.

9. There are two primary accounting implications that result from this Issue. The first is the effect on the measurement of the grant-date fair value of the awards. When the performance target is treated as a non-vesting condition, the grant-date fair value of the awards incorporates assumptions about the achievement of the performance target. When the performance target is treated as a performance condition, those assumptions are not reflected in the grant-date fair value. The second accounting implication is the effect on the timing of the compensation cost. When the performance target is treated as a non-vesting condition, the compensation cost is recognized over the requisite service period; that is, the period in which the entity receives the employee services However, when the performance target is treated as a performance condition, the compensation cost is recognized when the achievement of the performance condition is considered probable, which may be some years after the requisite service period and at a time when the recipient is no longer in service. Alternatively, the performance condition may not be considered probable, and, therefore, no compensation cost will be recognized.

Issue

10. Whether a performance target that can be achieved after an employee provides the requisite service is a performance condition or a condition that affects the grant-date fair value of the awards.

Current EITF Discussion

11. At the June 11, 2013 EITF meeting, the Task Force discussed and acknowledged the merits of all alternative views, focusing on the performance condition approach and the non-vesting condition approach. The Task Force also observed that the view that would treat the

performance target as a non-vesting condition would be more consistent with recent tentative decisions reached under International Financial Reporting Standards (IFRS). The Task Force noted the opportunity for substantial convergence but also observed that this approach may add additional measurement uncertainty to the grant-date fair value of the awards, which would add complexity to the measurement of the awards.

12. A majority of the Task Force members expressed initial support for treatment of the performance target as a performance condition because the measurement of the grant-date fair value of the awards is less complex when applying this approach, when compared with applying the non-vesting condition approach. However, some Task Force members and some Board members raised concern that this approach would weaken the main recognition principle of Topic 718, Compensation—Stock Compensation, that compensation cost should be recognized when the employee services are received, and would result in a different approach than under IFRS. The Task Force directed the FASB staff to perform additional analysis on this Issue to assist the Task Force in making a decision on this Issue. This analysis shall include:

a. Comparison of the performance condition approach and the non-vesting condition approach to IFRS 2, *Share-based Payments* (including the proposed amendments to IFRS 2 in the IASB's 2012 annual improvements project)
b. Consideration of other types of performance targets that may be relevant to awards that are in the scope of this Issue
c. Analysis of the measurement complexities under both approaches
d. Obtain and report on feedback from users as to their preferred approach
e. Analyze how both approaches would affect awards issued to retirement-eligible employees and other employees.

Status

13. Further discussion is expected at a future EITF meeting.

Issue No. 13-E

Title: Reclassification of Collateralized Mortgage Loans upon a Troubled Debt Restructuring

Date Discussed: June 11, 2013

Introduction

1. In recent years, the number of vacant or abandoned residential real estate properties resulting from the general economic conditions, including weakness in the housing market, has affected the rate of residential real estate foreclosures and increased the potential for higher levels of foreclosed real estate owned (also known as OREO) by banks or similar lenders (creditors).

2. Current guidance in U.S. GAAP indicates that upon "a troubled debt restructuring that is *in substance a repossession or foreclosure* by the creditor, that is, the creditor receives physical possession of the debtor's assets *regardless of whether formal foreclosure proceedings take place* (emphasis added)," a creditor should record the residential real estate received (and held for sale) initially at its fair value less cost to sell. This becomes the cost basis of that property. A subsequent decrease or increase in the fair value less cost to sell should be recognized, but not in excess of the initial cost basis of the foreclosed residential real estate property. As such, a creditor should reclassify a collateralized residential mortgage loan (for example, to OREO) when it determines that it has, in substance, repossessed or foreclosed on the residential real estate property. However, the terms *in substance a repossession* and *foreclosure* are not defined in the accounting literature and there is diversity in the timing of their application and interpretation for purposes of reclassifying the loan receivable. That diversity has been highlighted by the extended foreclosure timelines and processes related to residential real estate properties.

3. OREO consists of real estate property held by a creditor for reasons other than to conduct its business and there is different operational and economic risk to managing real estate versus an impaired loan. Therefore, loan derecognition and presentation as OREO may be of qualitative significance to users of the creditor's financial statements. As such, the timing of loan reclassification to OREO is of interest to users of financial statements in terms of consistency in interpreting and applying U.S. GAAP guidance.

Issue

4. When a creditor should be considered to have taken physical possession of a residential real estate property collateralizing a consumer mortgage loan, such that the loan should be reclassified (for example, to OREO).

Scope

5. This Issue would affect (a) reclassification of consumer mortgage loans issued by banks or other lenders that are collateralized by the residential real estate property for which the loan was obtained, and (b) disclosures of foreclosed real estate owned.

Current EITF Discussion

6. The Task Force reached a consensus-for-exposure that a creditor should be considered to have taken physical possession of residential real estate property collateralizing a consumer mortgage loan only upon (a) the creditor obtaining legal title to the residential real estate property or (b) completion of a deed in lieu of foreclosure or similar legal agreement under which the borrower conveys all interest in the residential real estate property to the creditor to satisfy that loan, even though legal title may not yet have passed. The deed in lieu of foreclosure or similar legal agreement is completed when agreed terms and conditions have been satisfied by both the borrower and the creditor.

7. The Task Force observed that before obtaining title or other legal conveyance of property in satisfaction of the loan, the creditor generally only has protective rights associated with that property for which it is not legally the owner. The creditor lacks the most important rights associated with ownership in that it cannot receive rent income or sell or otherwise transfer the real estate property before title is obtained (or all interest is conveyed), and, therefore, the most important benefit of ownership is dependent upon possessing title or upon the borrower legally conveying all interest in the property, such as is evidenced by a completed deed in lieu of foreclosure. The Task Force considered transfer of legal title and a completed deed in lieu of foreclosure to be similar because legal title can typically be obtained within a few months of a completed deed in lieu of foreclosure. Further, the Task Force believes that the reference in the accounting guidance to the creditor receiving physical possession of the debtor's assets regardless of whether formal foreclosure proceedings take place refers to situations in which a deed in lieu of foreclosure or similar legal agreement is completed without formal foreclosure proceedings taking place.

8. The Task Force also decided that the consensus-for-exposure should request stakeholder feedback through the comment letter process on whether the scope of this Issue should be expanded to commercial real estate loans and loans collateralized by nonfinancial assets other than real estate.

Recurring Disclosures

9. The Task Force reached a consensus-for-exposure that creditors would be required to disclose the recorded investment in residential consumer mortgage loans secured by residential properties that are in process of foreclosure. The determination of whether such a loan is in the process of foreclosure should be made by reference to local requirements of the applicable jurisdiction. The Task Force observed that this proposed requirement would be similar to the disclosure of unpaid principal balance of loans secured by one to four family residential properties in the process of foreclosure that currently is required on a quarterly basis for regulated financial institutions that are required to file a Consolidated Report of Condition and Income (Call Report). The Task Force believes that the disclosure should be brought into U.S. GAAP financial statements within the context of existing credit quality disclosures in Section 310-10-50 to provide timely and complete information to users of a creditor’s financial statements about the progression of collateral-dependent residential consumer mortgage loans from performing to nonperforming and, ultimately, to foreclosure. The Task Force expects that users of financial statements would benefit from understanding the trend of progression toward foreclosure over time.

10. In addition, the Task Force reached a consensus-for-exposure that creditors that receive physical possession of real estate property collateralizing a residential consumer mortgage loan would be required to disclose a roll-forward schedule explaining the change from the beginning to the ending balance of such foreclosed properties. Such a disclosure would highlight the extent of reclassification of residential consumer mortgage loans to foreclosed real estate as well as sales or transfers of foreclosed real estate each period. The Task Force believes that those disclosures would provide decision-useful information to users of the entity's financial statements.

Transition

11. The Task Force reached a consensus-for-exposure that the amendments resulting from this Issue would be applied on a modified retrospective basis to residential consumer mortgage loans and foreclosed residential real estate properties held by the creditor at the date of adoption through a cumulative-effect adjustment as of the beginning of the annual reporting period for which the guidance is effective. The cumulative-effect adjustment would be recorded at the date of adoption by reflecting any reclassification between residential consumer mortgage loans and foreclosed residential real estate properties in the carrying amounts of those assets as of the beginning of the current year presented. A corresponding adjustment, if any, would be made to the opening balance of retained earnings (or other appropriate components of equity) for the current year. Prior periods would not be adjusted. Early adoption would be permitted.

Transition Disclosures

12. The Task Force reached a consensus-for-exposure that entities should apply the transition disclosure requirements in paragraphs 250-10-50-1 through 50-3 for an accounting change resulting from this Issue. No additional transition disclosures would be required.

Board Ratification

13. At its June 26, 2013 meeting, the Board ratified the consensus-for exposure reached by the Task Force in this Issue and approved the issuance of a proposed Update for a 60-day public comment period.

Status

14. Further discussion is expected at a future EITF meeting.

Status of Open Issues and Agenda Committee Items

The following represents the FASB staff's assessment of the status and immediate plans with respect to the open Issues on the Task Force's agenda. The Issues that will be added to the proposed agenda for the September 13, 2013 meeting will be considered either high priority issues or issues on which meaningful progress can be made within the staff's given complement of resources. The staff's prioritization of issues is based primarily on the FASB staff's understanding of the level of diversity in practice created by each respective Issue, the financial reporting implications of that diversity, the current interaction, if any, of the Issues with active Board projects, and current resource availability among the staff (with respect to both time and relevant technical expertise).

Issue No.	Description	Date Added	Date(s) Discussed	Next Meeting	EITF Liaison	FASB Staff	Immediate Plans	Due Date - Next Deliverable
12-F	Recognition of New Accounting Basis (Pushdown) in Certain Circumstances	5/12	1/13; 3/13	9/13	Evans	Gupta/ Or	The FASB staff will prepare an Issue Supplement	September 13, 2013 EITF meeting
12-G	Measurement of the Financial Liabilities of a Consolidated Collateralized Financing Entity	7/12	9/12; 3/13; 6/13	11/13	Day	Brown/ McKinney	The FASB staff will prepare an Issue Supplement addressing comments received on the proposed Update	Comment deadline September 16, 2012; November 14, 2013 EITF meeting
12-H	Accounting for Service Concession Arrangements	9/12	1/13; 3/13; 6/13	11/13	Althoff	Gagnon/ Mottley	The FASB staff will prepare an Issue Supplement addressing comments received on the proposed Update	Comment deadline September 16, 2013; November 14, 2013 EITF meeting

Issue No.	Description	Date Added	Date(s) Discussed	Next Meeting	EITF Liaison	FASB Staff	Immediate Plans	Due Date - Next Deliverable
13-B	Accounting for Investments in Tax Credits	11/12	3/13	9/13	Day	Brown/ Klumpp	The FASB staff will prepare an Issue Supplement addressing comments received on the proposed Update	Comment deadline June 17, 2013; September 13, 2013 EITF meeting
13-D	Determination of Whether a Performance Target That Can be Achieved after an Employee Provides the Requisite Service Is a Performance Condition or a Condition That Affects the Grant-Date Fair Value of the Awards	5/13	6/13	9/13	Evans	Motley/ Walsh	The FASB staff will prepare an Issue Supplement summarizing the results of additional outreach performed on this Issue	September 13, 2013 EITF meeting
13-E	Reclassification of Collateralized Mortgage Loans upon a Troubled Debt Restructuring	5/13	6/13	9/13	Althoff	TBD/ Sangiuolo	The FASB staff will prepare an Issue Supplement addressing comments received on the proposed Update	Comment deadline September 16, 2013; November 14, 2013 EITF meeting
13-F	Accounting for the Effect of a Federal Housing Administration Guarantee	5/13	N/A	9/13	Althoff	TBD	The FASB staff will prepare an Issue Summary	September 13, 2013 EITF meeting

Issue No.	Description	Date Added	Date(s) Discussed	Next Meeting	EITF Liaison	FASB Staff	Immediate Plans	Due Date - Next Deliverable
13-G	Determining Whether the Host Contract in a Hybrid Financial Instrument Is More Akin to Debt or Equity	7/13	N/A	9/13	TBD	Milone/ TBD	The FASB staff will prepare an Issue Summary	September 13, 2013 EITF meeting

Other EITF Issues including Inactive Issues Pending Developments in Board Projects							
Issue No.	**Description**	**Date Added**	**Date(s) Discussed**	**Next Meeting**	**FASB Staff**	**Immediate Plans**	**Due Date - Next Deliverable**
03-15	Interpretation of Constraining Conditions of a Transferee in a Collateralized Bond Obligation Structure	11/02	N/A	Not scheduled	TBD	Statement 166 addressed this Issue and, therefore, the FASB staff will request that the Issue be removed from the EITF's technical agenda at a future meeting.	Future Agenda Committee or EITF Meeting
06-12	Accounting for Physical Commodity Inventories for Entities within the Scope of the AICPA Audit and Accounting Guide, Brokers and Dealers in Securities	8/06	11/06	Not scheduled	TBD	No immediate plans to address this Issue.	Future EITF Meeting
09-D	Application of the AICPA Audit and Accounting Guide, Investment Companies, by Real Estate Investment Companies	2/09	N/A	Not scheduled	TBD	Pending the outcome of the Board's projects on consolidation, investment companies, and investment properties.	Future EITF Meeting
10-B	Accounting for Multiple Foreign Exchange Rates	3/10	7/10, 9/10	Not scheduled	TBD	No immediate plans to address this Issue.	N/A

Issues Pending Further Consideration by the Agenda Committee							
Issue No.	**Description**	**Date Added**	**Date(s) Discussed**	**Next Meeting**	**FASB Staff**	**Immediate Plans**	**Due Date - Next Deliverable**
N/A	Application of EITF Issue No. 99-20, "Recognition of Interest Income and Impairment on Purchased and Retained Beneficial Interests in Securitized Financial Assets," When a Special-Purpose Entity Holds Equity Securities and Whether an Investment That Is Redeemable at the Option of the Investor Should Be Considered an Equity Security or Debt Security	9/00	N/A	Not scheduled	TBD	Statement 155 did not address this Issue. Therefore, the FASB staff will bring this Issue to the Agenda Committee at a future meeting to determine whether to begin discussions on this Issue.	Future Agenda Committee meeting