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July 8, 2009

Mr. Russell G. Golden  
Director, TA&I  
Financial Accounting Standards Board  
401 Merritt 7  
P.O. Box 5116  
Norwalk, CT 06856-5116

**Re: Proposed FASB Staff Position FAS 157-g, *Estimating the Fair Value of Investments in Investment Companies That Have Calculated Net Asset Value per Share in Accordance with the AICPA Audit and Accounting Guide, Investment Companies***

Dear Mr. Golden:

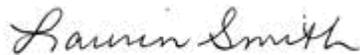
The International Swaps and Derivatives Association (“ISDA”) appreciates the opportunity to comment on the proposed FASB Staff Position FAS 157-g, *Estimating the Fair Value of Investments in Investment Companies That Have Calculated Net Asset Value per Share in Accordance with the AICPA Audit and Accounting Guide, Investment Companies* (the “Proposed FSP”). ISDA members represent leading participants in the privately negotiated derivatives industry. Collectively, the membership of ISDA has substantial professional expertise and practical experience addressing accounting policy issues with respect to financial instruments.

ISDA supports the FASB’s efforts to address practice issues pertaining to the application of SFAS 157, *Fair Value Measurements* (“SFAS 157”), to fair value measurements of investments in entities which have a calculated net asset value (“NAV”) per share. We acknowledge the FASB's efforts to provide financial statement preparers practical guidance when estimating the fair value of financial instruments which trade in inactive markets. We believe that NAV represents the most relevant measure when estimating the fair value of alternative investments whose fair values are not readily determinable and that the Proposed FSP will enhance consistency and comparability in financial reporting.

However, ISDA observes that certain provisions within the Proposed FSP should be modified or reconsidered prior to the issuance of a final standard. The effective date is not operational in the time period proposed, and we believe that the immediate implementation for June 30, 2009 financial information is not appropriate given the release of the final standard would not be until late July or early August 2009, coinciding with the deadlines for this financial information. In addition, we believe that the scope of the Proposed FSP should be expanded to provide guidance for valuing investments in international funds which, for example, may report their financial information under International Financial Reporting Standards (IFRS). We also question the cost/benefit of the proposed disclosures for investments to which the practical expedient does not apply. We ask that the FASB consider the recommendations in the paragraphs that follow during its deliberations of the Proposed FSP.

We hope you find ISDA's comments informative and beneficial. Should you have any questions or desire any clarification concerning the matters addressed in this letter please do not hesitate to contact the undersigned.

Sincerely,



Laurin Smith  
*J.P. Morgan Chase & Co*  
Chair, N.A. Accounting Policy Committee  
*International Swaps and Derivatives Association*  
212.648.0909

### **Use of NAV in Estimating Fair Value**

We believe that the Proposed FSP provides needed guidance on the application of SFAS 157 to certain financial instruments, and acknowledge the FASB's efforts to support the use of relevant and practical inputs when estimating the fair value of financial instruments which trade in inactive markets. ISDA acknowledges the complexity financial statement preparers face in practice when estimating the fair value of alternative, and often illiquid, investments for which there is limited observable information or for which there is no active exit market. In many cases, the use of NAV is the most relevant and practical method to estimate the fair value of alternative investments. We therefore support the FASB permitting NAV to be used when estimating fair value of this specific asset class and believe that this proposal will greatly enhance consistency and comparability in reporting fair value. However, as more fully discussed in our comments on scope below, the use of NAV as a measure of fair value should not be limited solely to investments for which NAV is calculated in accordance with the AICPA Audit and Accounting Guide, *Investment Companies* (the "Guide"), but rather be permitted for similar entities (for example, broker-traders described in paragraph 5 of IAS 2, *Inventories*, and those entities which meet the criteria described in paragraph 1 of IAS 28, *Investments in Associates*) which calculate NAV in accordance with applicable generally accepted accounting principles ("GAAP").

### **Effective Date/Operationality**

The Proposed FSP would be effective upon issuance, including prior periods for which financial statements have not been issued, and applied prospectively. While ISDA supports the measurement guidance within the Proposed FSP, its implementation will require a number of new and time consuming data sorting and collection procedures to be put in place in order to comply with the proposed disclosure requirements , including:

1. Determining the population of investments within versus outside the scope of the Proposed FSP
2. Determining whether entities calculate NAV in accordance with the Guide
3. Separating the population of investments into those for which the practical expedient has been applied versus those for which the practical expedient is not applicable
4. Collecting the terms and conditions of the redemption provisions of the investments for disclosure
5. Collecting and reviewing for accuracy the data separated into the categories noted above

Given the date on which the public comment period ends (July 8, 2009), the estimated date of issuance of a final standard (generally 30-45 days after the public comment period ends)

and the number of incremental operational procedures financial statement preparers would need to implement for their June 30, 2009 reporting periods, ISDA does not believe that the proposed transition is operationally feasible and believe a period of at least three months after issuance should be provided to companies to implement the disclosure requirements. Therefore we strongly encourage the FASB to modify the transition period within the Proposed FSP so that its effective date coincides with the beginning of the first fiscal period beginning three months after issuance, with earlier application permitted. For example, if the final standard is issued on July 31, 2009, we recommend the effective date be set as the beginning of the first fiscal reporting period beginning after September 30, 2009.

### Scope

Paragraphs 12 and A1a provide that the application guidance within the Proposed FSP applies to investments in entities that meet the definition of an investment company in paragraph 1.06 of the Guide, for which the entity's net asset value per share (or its equivalent) has been calculated in accordance with that Guide. ISDA is concerned that the scope of the Proposed FSP appears to limit its application solely to investment companies that calculate NAV in accordance with the Guide and preclude its application to other similar entities (for example, mutual funds or hedge funds which report their financial statements under other GAAP). As drafted, we believe that the scope will limit the usefulness and benefits of the guidance in practice, as many investment companies do not themselves report NAV under U.S. GAAP but rather other GAAP (for example, IFRS). As a significant number of investment funds are located outside of the U.S., we strongly encourage the FASB to modify the scope of the Proposed FSP to permit its application to investments in entities that calculate NAV in accordance with other recognized GAAP so long as the carrying values of the assets it holds are representative of fair value. If it is not the FASB's intent to include such international funds in the scope of the Proposed FSP, we feel the FASB should provide additional guidance on how such investments should be valued. ISDA therefore recommends the following changes to paragraphs 12, (with conforming changes to paragraphs 15 and A1a) of the Proposed FSP. [Inserted text inserted is underlined]

12. This FSP applies to investments in entities that meet the definition of an *investment company* in paragraph 1.06 of the investment companies Guide for which the entity's net asset value per share (or its equivalent, for example, partners' capital per share for an investment in a partnership) has been calculated in accordance with that Guide. This FSP also applies to investments in entities for which the entity's net asset value per share (or its equivalent, for example, partners' capital per share for an investment in a partnership) has been calculated in accordance with other generally accepted accounting principles (GAAP) as long as the carrying values of assets held by the entity are representative of fair value.

**Disclosures: Scope, Purpose, and Cost-Benefit**

The Proposed FSP does not amend what assets and liabilities are measured at fair value, and we therefore understand that paragraphs 16 and A1b are intended only to apply to investments carried at fair value on a recurring basis or currently measured at fair value due to an impairment event. However, we believe that confusion could arise in practice regarding the interaction of the disclosure requirements to other disclosure requirements such as FASB Statement No. 107, *Disclosures about Fair Value of Financial Instruments* (“SFAS 107”). For example, cost method investments in private equity and other similar companies are not remeasured to fair value in the absence of an impairment event. It is not clear whether or why these investments would be within the scope of the disclosures in the absence of such a remeasurement event simply because they are within the scope of SFAS 107’s disclosures.

Additionally the purpose of the disclosures that would be required by paragraphs 16 and A1b is not clearly articulated and is not directly aligned with the measurement guidance within the Proposed FSP. If the purpose of these disclosures is to assist investors in understanding the impact of an entity’s application of the practical expedient set forth in paragraphs 15 and 31D of the Proposed FSP, then the scope of these disclosures should be limited only to those investments. If, however, the purpose for these incremental disclosures is to provide additional information about all investments within the scope of the Proposed FSP, including those for which the practical expedient was not used to estimate fair value, we question why it is necessary to add these new disclosures for a subset of financial instruments on a piecemeal basis. Moreover, we question the need for and benefit of disclosures for a narrow asset class at this juncture given the scope of the FASB’s *Improving Disclosure about Fair Value Measurements* project, which will reconsider all disclosures for instruments measured at fair value, including financial instruments measured by reference to significant unobservable inputs. Accordingly, we strongly recommend that the disclosures that would be required in paragraphs 16 and A1b should only be required for investments measured using the practical expedient set forth in paragraphs 15 and 31D of the Proposed FSP, otherwise we ask the FASB to provide its basis for why these disclosures are necessary for only a subset of financial assets measured using exit price under SFAS 157.

ISDA therefore recommends that the following conforming changes be made to the first sentence of paragraphs 16 and A1b of the Proposed FSP. [inserted text inserted is underlined and deleted text is ~~stricken~~]

16. If an investment within the scope of this FSP is carried in the statement of financial position at fair value on a recurring or nonrecurring basis and its carrying value is within the scope remeasured using the practical expedient set forth in paragraph 31D of this FSP in the current period, ~~for both recurring and~~

~~nonrecurring measurements~~, a reporting entity shall disclose information that enables users of its financial statements to understand the nature and risks of the investment.

- a. The fair value (~~determined by applying this FSP, if applicable~~) of investments ~~within the scope of this FSP, separately disclosing the fair value of investments~~ to which the reporting entity has applied the practical expedient in paragraph 15 of this FSP, and a description of the significant investment strategies of the investee(s).

### **Application of NAV to Estimate Fair Value**

Paragraph 15 of the Proposed FSP provides that a reporting entity may estimate fair value of financial assets within its scope using unadjusted NAV if calculated as of the reporting entity's measurement date. In many cases NAV is not available for the current measurement date in the timeframe necessary for public companies to externally publish their financial statements, and thus restricting the use of NAV as of the reporting entity's measurement date would greatly reduce the benefits of the proposed guidance in practice. We note that Accounting Principles Board Opinion No. 18, *The Equity Method of Accounting for Investments in Common Stock*, provides investors the ability to use the latest available audited financial statements to estimate their proportionate share of an investee's net income, and further, practice has been to consider whether significant events and transactions have occurred since the date of the investee's latest financial statements that would impact the investor's proportionate share of investee net income. Therefore we recommend that the final guidance provide a similar accommodation for estimating the fair value of investments in entities for which NAV is not available as of the entity's measurement date with the requirement to ascertain the occurrence of significant events that may impact NAV. ISDA recommends that the FASB make the following modifications to paragraph 15 in order to amplify the usefulness of the Proposed FSP. [inserted text inserted is underlined and deleted text is ~~stricken~~]

15. In circumstances in which net asset value per share of an investment is not determinative of fair value, a reporting entity is permitted, as a practical expedient, to estimate the fair value of an investment within the scope of this FSP using the net asset value per share of the investment (or its equivalent, for example, partners' capital per share for an investment in a partnership) without further adjustment, if the net asset value per share of the investment is determined in accordance with paragraph 12 of the Proposed FSP ~~the investment companies Guide~~ as of the reporting entity's measurement date, or as of the date for which the latest net asset value per share is available. If the calculated net asset value per share is not available as of the reporting entity's measurement date, the reporting entity shall use reasonable efforts to ascertain whether significant events have occurred since the date of the latest available net asset value per share that would impact the fair value measurement.

**Disclosures: Level of Aggregation**

Paragraphs 16 and A1b would require preparers to provide the proposed disclosures organized by major category, which would need to be determined on the basis of the nature and risks of the investment. Given companies hold alternative investments for different purposes (for example, trading, long term appreciation, strategic, etc.), we support the FASB allowing the determination of major category to be based on the nature and risk of the investment, thereby providing preparers the ability to exercise judgment in how they categorize the investments for which the disclosures are required, including based on how they are risk managed.