



Via email to [director@fasb.org](mailto:director@fasb.org)

February 15, 2012

Ms. Susan M. Cospers  
Technical Director  
Financial Accounting Standards Board  
401 Merritt 7  
PO Box 5116  
Norwalk, CT 06856

**Re: File Reference No. 2011-200: Proposed Accounting Standards Update, *Financial Services – Investment Companies (Topic 946), Amendments to the Scope, Measurement, and Disclosure Requirements***

Dear Ms. Cospers:

This letter is submitted in response to the request for public comment by the Financial Accounting Standards Board with respect to its Exposure Draft of the proposed Accounting Standards Update, *Financial Services - Investment Companies (Topic 946), Amendments to the Scope, Measurement, and Disclosure Requirements*. WeiserMazars LLP appreciates the opportunity to review and comment on this Exposure Draft.

Our responses to the questions in the Exposure Draft are included for your consideration.

If you have any questions about our comments or wish to discuss any of the matters addressed herein, please contact James N. Kinney (at 516.620.8535), Bonnie S. Mann Falk (at 516.620.8554), or Denise Moritz (at 646.225.5913).

Very truly yours,

A handwritten signature in cursive script that reads 'WeiserMazars LLP'.

WeiserMazars LLP

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## **WeiserMazars LLP**

### **Comments on Proposed Accounting Standards Update – Financial Services – Investment Companies (Topic 946) Amendments to the Scope, Measurement, and Disclosure Requirements**

**(File Reference No. 2011-200)**

#### **Responses to Specific Questions**

**Question 1: The proposed amendments would require an entity to meet all six of the criteria in paragraph 946-10-15-2 to qualify as an investment company. Should an entity be required to meet all six criteria, and do the criteria appropriately identify those entities that should be within the scope of Topic 946 for investment companies? If not, what changes or additional criteria would you propose and why?**

*Response: An entity should be required to meet all six of the criteria: (a) nature of the investment activities, (aa) express business purpose, (b) unit ownership, (c) pooling of funds; (cc) fair value measurement, and (d) reporting entity. Criterion (c) Pooling of funds calls for unrelated investors that hold a significant ownership interest in the entity. We believe the pooling of funds criterion should be clarified as to how the term 'significant ownership' should be interpreted. (Refer to our Response to Question 7 for further discussion.)*

**Question 2: The definition of an investment company in the proposed amendments includes entities that are regulated under the SEC's Investment Company Act of 1940. Are you aware of any entities that are investment companies under U.S. regulatory requirements that would not meet all of the proposed criteria in paragraph 946-10-15-2? If so, please identify those types of entities and which of the criteria they would not meet.**

*Response: We agree with the proposed ASU as it applies to Investment Companies registered under the SEC's Investment Company Act of 1940, ("40s Act Companies") The ASU should not limit their discussion only to 40s Act Companies. The ASU should also list a Small Business Investment Company ("SBIC") as defined under the U. S. Small Business Administration Act as an "other investment company under U.S. regulatory requirements". This would add sufficient clarity to paragraph 946-10-15-2. We are not aware of any other investment companies under U.S. regulatory requirements that would not meet all of the proposed criteria in paragraph 946-10-15-2.*



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**Question 3: The proposed amendments would remove the scope exception in Topic 946 for real estate investment trusts. Instead, a real estate investment trust that meets the criteria to be an investment property entity under the proposed Update on investment property entities would be excluded from the scope of Topic 946. Do you agree that the scope exception in Topic 946 for real estate investment trusts should be removed? In addition, do the amendments in the proposed Updates on investment companies and investment property entities appropriately identify the population of real estate entities that should be investment companies and investment property entities?**

*Response: We agree that the scope exception for real estate investment trusts (“REITs”) should be removed. The criteria to be considered an investment company or investment property entity should be sufficient to identify those types of entities. There need not be additional criteria based upon the form of an entity, as would be the case if the scope exception for REITs is retained.*

**Question 4: The proposed amendments would require an entity to reassess whether it is as an investment company if there is a change in the purpose and design of the entity. Is this proposed requirement appropriate and operational? If not, why?**

*Response: The proposed requirement is appropriate and operational.*

**Question 5: An entity may be an investment company when it performs activities that support its investing activities. As a result, a real estate fund or real estate investment trust (that is not an investment property entity) could be an investment company if the entity (directly or indirectly through an agent) manages only its own properties. However, the entity would be precluded from being an investment company if the other activities were considered more than supporting the entity’s investment activities (for example, construction). Is this requirement operational, and could it be consistently applied?**

*Response: This requirement could be operational but may not be consistently applied. To address the risk of inconsistent application, we suggest distinguishing an investment property entity from an investment company by the entity’s ability to actively manage the investment property. By active management we mean involved in the day-to-day activities of the investment property. Active management should preclude an entity from being classified as an investment company.*

**Question 6: The proposed implementation guidance includes examples of relationships or activities that would indicate that an entity obtains or has the objective of obtaining returns from its investments that are not capital appreciation or investment income. Do you agree with these examples? If not, how would you modify the examples while still addressing the Board’s**



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**concerns identified in paragraphs BC15 and BC16?**

*Response: We agree with the examples in the proposed implementation guidance. Additional examples would be helpful.*

**Question 7: To be an investment company, the proposed amendments would require an entity to have investors that are not related to the entity's parent (if there is a parent) and those investors, in aggregate, must hold a significant ownership interest in the entity. Is this criterion appropriate? If not, why?**

*Response: We believe that an entity should be considered an investment company only if the entity has investors that are unrelated to the entity's parent (if any) and those investors hold a significant ownership interest in the entity. We believe that additional clarification of what is meant by a "significant ownership interest" should be provided to avoid inconsistent application of this criterion. Perhaps consider including a specific percentage of ownership interest in the entity or at a minimum provide further guidance on how "significant" should be interpreted.*

**Question 8: The proposed unit-ownership criterion would require an entity to have ownership interests in the form of equity or partnership interests to be an investment company. The entity would consider only those interests in determining whether it meets the proposed pooling-of-funds criterion. Therefore, a securitization vehicle, such as a collateralized debt obligation, may not qualify as an investment company under the proposed amendments because it may not meet the unit-ownership or the pooling-of-funds criterion. The entity would not consider interests held by its debt holders when evaluating these criteria to be an investment company. For entities that do not have substantive equity interests (for example, those considered variable interest entities under Subtopic 810-10), should the unit-ownership and pooling-of-funds criteria to be an investment company consider interests held by debt holders? Please explain.**

*Response: We disagree with the proposed amendments. We believe the unit-ownership and pooling-of-funds criteria to be an investment company should consider the interests held by debt holders for entities that do not have substantive equity interests, such as variable interest entities.*

**Question 9: Certain entities may meet all of the other criteria to be an investment company but have only a single investor (for example, a pension plan). The amendments in FASB's proposed Update on investment property entities provides that if the parent of an entity is required to measure its investments at fair value under U.S. GAAP or the parent entity is a not-for-profit entity under Topic 958 that measures its investments at fair value, the entity would not need to**



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**meet the unit-ownership and pooling-of-funds criteria to be an investment property entity. Considering the Board's concerns identified in paragraph BC24, should the criteria in this proposed Update be amended to address situations in which the entity has a single investor?**

*Response: The criteria in this proposed Update should be amended to address situations in which the entity has a single investor. We recommend that the Board consider including investor/investee relationships and not only the parent/subsidiary relationship.*

**Question 10: The unit-ownership and pooling-of-funds criteria in the proposed amendments do not consider the nature of the entity's investors for evaluating if an entity is an investment company. That is, the criteria do not differentiate between passive investors and other types of investors. Do you agree that the nature of the investors should not be considered in evaluating the unit-ownership and pooling-of-funds criteria?**

*Response: We agree that the nature of the investors should not be considered in evaluating the unit-ownership and pooling-of-funds criteria.*

**Question 11: The proposed amendments would require that substantially all of an investment company's investments are managed, and their performance evaluated, on a fair value basis. Do you agree with this proposal? If not, why? Is this proposed amendment operational and could it be consistently applied? If not, why?**

*Response: We agree with this proposal. The proposed amendment is operational. Issues regarding consistency should be alleviated by the measurement and disclosure requirements of Topic 820. However, we believe that additional guidance should be provided to determine how "substantially all" is interpreted.*

**Question 12: The proposed amendments would retain the requirement that an investment company should not consolidate or apply the equity method for an interest in an operating company unless the operating entity provides services to the investment company. However, the proposed amendments would require an investment company to consolidate controlling financial interests in another investment company in a fund-of-funds structure. An investment company would not consolidate controlling financial interests in a master-feeder structure. Do you agree with this proposed requirement for fund-of-funds structures? If not, what method of accounting should be applied and why? Should a feeder fund also consolidate a controlling financial interest in a master fund? Please explain.**

*Response: We do not agree with the proposed requirement for fund-of-funds structures as proposed in paragraph 946-810-45-3 (b). We agree with the amendments in the proposed Update that a feeder fund should not consolidate a controlling financial interest in a master fund. We believe that it is inconsistent with proposed paragraph 946-810-45-2 to require a fund-of-fund structure, with a "controlling financial interest" in another investment company, to consolidate its interest held in another investment company Consolidation*



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would be onerous and make the financial statements and the notes thereto potentially misleading and too voluminous. We believe enhancing the already required disclosures regarding the nature of investments and concentration of risk required by Topic 946 is necessary. Including additional information in the notes to the financial statements such as a condensed schedule of investments that shows the investments held by investee funds or the master fund and discussing the related risks would provide meaningful information to the investors and other users of the financial statements, without the requirement of consolidation of financial position, and results of operations.

**Question 13: The proposed amendments would require an investment company to consolidate a controlling financial interest in an investment property entity. Should an investment company be subject to the consolidation requirements for controlling financial interests in an investment property entity? If not, what method of accounting should be applied and why?**

*Response: We agree that an investment company should be subject to the consolidation requirements for controlling financial interests in an investment property entity.*

**Question 14: The proposed amendments would prohibit an investment company from applying the equity method of accounting in Topic 323 to interests in other investment companies and investment property entities. Rather, such interests would be measured at fair value. Do you agree with this proposal? If not, why?**

*Response: We agree that an investment company should be prohibited from applying the equity method of accounting in Topic 323 to interests in other investment companies, but we believe that the equity method is appropriate for investment property entities.*

**Question 15: An investment company with a controlling financial interest in a less-than-wholly-owned investment company subsidiary or an investment property entity subsidiary would exclude in its financial highlights amounts attributable to the noncontrolling interest. Do you agree that the amounts attributable to the noncontrolling interest should be excluded from the calculation of the financial highlights? If not, why?**

*Response: We agree with this proposal.*

**Question 16: If an investment company consolidates an investment property entity, the proposed amendments require the investment company to disclose an additional expense ratio that excludes the effects of consolidating its investment property entity subsidiaries from the calculation. Do you agree? If not, why?**

*Response: We agree with these amendments.*



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**Question 17: Do you agree with the additional proposed disclosures for an investment company? If not, which disclosures do you disagree with, and why? Would you require any additional disclosures and why?**

*Response: We agree with the additional proposed disclosures for an investment company. Refer to our response to Question 12 for suggested additional disclosures in lieu of consolidation.*

**Question 18: The proposed amendments would retain the current requirement in U.S. GAAP that a noninvestment company parent should retain the specialized accounting of an investment company subsidiary in consolidation. Do you agree that this requirement should be retained? If not, why?**

*Response: We agree that these requirements should be retained.*

**Question 19: An entity that no longer meets the criteria to be an investment company would apply the proposed amendments as a cumulative-effect adjustment to retained earnings as of the beginning of the period of adoption by calculating the carrying amounts of its investees as though it had always accounted for its investments in conformity with other applicable U.S. GAAP, unless it is not practicable. If not practicable, the entity would apply the proposed amendments as of the beginning of the period of adoption. Do you agree with this proposal? If not, why?**

*Response: We believe that the proposed amendments should be applied as a cumulative-effect adjustment to retained earnings as of the beginning of the earliest period presented rather than the period of adoption to avoid having different accounting policies in comparative financial statements. We believe that the guidance regarding prospective application of a reassessment provided in paragraphs 946-10-25-2 and 25-3 is appropriate.*

**Question 20: How much time would be necessary to implement the proposed amendments?**

*Response: We recommend that the effective date be no earlier than two years after the date that the Accounting Standard Update is issued. This would enable an entity to have enough time to gather the necessary information to present comparative financial statements.*

**Question 21: The proposed amendments would prohibit early adoption. Should early adoption be permitted? If yes, why?**

*Response: We agree with the proposed amendments not allowing early adoption. We agree that early adoption would reduce the comparability of financial statements of similar entities.*



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**Question 22: The proposed amendments would apply to both public and nonpublic entities. Should the proposed amendments apply to nonpublic entities? If not, how should the proposed amendments differ for nonpublic entities and why?**

***Response:*** *We agree that the proposed amendments should apply to both public and nonpublic entities.*